Guidelines addressing environmental protection cases through human rights lenses: pathways to the European Court of Human Rights

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Author:
Małgorzata Kwiędacz-Palosz

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I. Introduction

1. BACKGROUND

The landscape of environmental and climate litigation is evolving rapidly, with human rights arguments playing a crucial role in this transformation. Individuals, affected communities, and civil society organisations across Europe and beyond are increasingly approaching domestic, regional, and international courts to address the triple planetary crisis of environmental pollution, climate change, and biodiversity loss.

This trend is particularly visible in Europe, where the European Court of Human Rights (the Court) has already dealt with almost 400 environmental cases. While the European Convention on Human Rights (the Convention) does not explicitly recognise the right to a healthy environment, the Court's evolving interpretation has incorporated environmental protection into the existing framework of human rights. As a result, the Court has become a vital forum for matters concerning environmental protection as its case law have increasingly recognised that environmental damage-whether due to pollution, dangerous activities, or foreseeable natural disasters - can violate human rights such as the right to life, private and family life, and the right to access justice. Its case law has reinforced the responsibilities of states to protect individuals from environmental threats and to establish effective national frameworks or fill enforcement gaps in existing environmental legislation to prevent the protection of human rights from becoming merely illusory.

The Convention functions as a supranational safeguard, ensuring accountability and redress when national protections fall short. Individuals, affected communities, and non-governmental organisations (NGOs) can seek such redress before the Court by submitting an application. However, environmental cases present unique challenges, as they must first be reinterpreted as human rights violations because the protection of the environment itself is not directly covered by the Convention. Therefore, to bring an environmental or climate case before the Court, one must frame the issue through a human rights lens. In this sense, environmental harm should be viewed not merely as a threat to nature but as a violation of rights protected by the Convention. Environment-related cases remain complex as applicants must navigate evolving jurisprudence, admissibility scrutiny, and this additional challenge of translating environmental harm into human rights violations.

2. PURPOSE OF THIS GUIDE

This guide aims to help to understand how to view environmental and climate issues from a human rights perspective, which is essential for accessing the protective system of the Convention. Submitting an application to the Court requires reframing environmental matters as direct interferences with existing human rights, such as the rights to life, private and family life, property, or access to justice.

This guide is designed for practicing lawyers who wish to submit applications representing individuals, affected communities, or NGOs in environmental cases. It helps them assess the potential success of environmental proceedings terminated at the national level. The guide bridges the often-separated domains of environmental regulation and human rights litigation, teaching how to translate environmental degradation into violations of Convention-protected rights.

3. STRUCTURE

This guide is comprised of several layers. The first three sections concentrate on the application process, with the initial section serving as a preparatory stage, the second examining the criteria of admissibility, and the third focusing on drafting legal arguments. The final two sections discuss the procedures before the Court, highlighting unique characteristics of this mechanism and detailing the lifecycle of an application.

The key to a successful application is recognising the human-rights dimension in the presented environmental case (section II). Only after this is established can one evaluate the Court's admissibility standards (section III). Once those criteria are met, the critical aspect of preparing an application involves formulating legal arguments effectively and aligning them with the requirements set forth in case law. To achieve this, it is essential to identify potential rights violations, understand how the Court has previously addressed similar cases, articulate environmental harm in the context of human rights, and perform legal subsumption (section IV). Lastly, the proceedings before the Court have their own particularities such as burden of proof and margin of appreciation (section V). Finally, the submission of the application is just the beginning of the procedure before the Court which covers several stages (section VI).

II. Human-rights dimension of environmental and climate cases

To use human-rights arguments effectively in environmental and climate cases, it is essential to reframe environmental harm as a direct human impact. This involves demonstrating how the environmental degradation at issue interferes with specific Convention rights. Industrial emissions may, for example, contribute to respiratory illness engaging Articles 2 and 8 of the Convention; improper disposal of toxic waste can endanger health and property under Articles 2, 8 and Article 1 of Protocol No. 1; failures to address climate change may expose individuals to extreme heat, a situation that may be relevant to Article 8; and excluding affected communities from environmental decision-making may raise issues under Articles 6 and 13 of the Convention.

Environmental degradation on its own does not automatically amount to a violation of the Convention, as the Court consistently has emphasised that the Convention protects individuals rather than the environment in the abstract. Successful application, therefore, requires showing that environmental damage constitutes a direct interference with the applicant's rights-such as life, private or family life, property, or access to justice. These might constitute the alleged violations of substantive or procedural rights, or both.

Applicants must demonstrate a causal link between given environmental conditions and their individual situation, that the harm was known or foreseeable to the State, that the authorities failed to act or regulate with due diligence, or that domestic remedies were ineffective or unavailable. This human-centred approach transforms environmental harm into the alleged breach of Convention rights.

As a practitioner bringing applications to the Court, it is good to keep in mind that the Court is the master of the characterisation to be given in law to the facts of the case (*Radomilja and Others v. Croatia* [GC] (2018)). This means that the Court is not bound by the legal provisions cited by the applicants and may assess their allegations under different Convention Articles. For example, an applicant complains about pollution caused by a nearby industrial facility and relies on Article 2, alleging a risk to life. However, considering the facts of the case, the Court may conclude that the allegations do not disclose a real and immediate risk to life and may therefore examine the complaint under Article 8, assessing whether the pollution interfered with the applicant's right to respect for private and family life and home. However, the Court cannot infer or create new complaints on the applicant's behalf.

1. SUBSTANTIVE AND PROCEDURAL HUMAN RIGHTS IN ENVIRONMENTAL AND CLIMATE LITIGATION

Substantive claims in environment and climate cases mainly focus on a State's failure to act reasonably and effectively to prevent or mitigate foreseeable harm. It is thus argued that when the authorities fail to regulate, monitor, or remediate environmental hazards, they breach their positive or negative obligations under the Convention. For example, the argument may be framed as follows: by failing to control or remediate known industrial pollution, the State violated Article 8 by failing to secure respect for private and family life, including the protection of health and home. In assessing these claims, the Court examines the severity, scope, and duration of the harm, the adequacy of the regulatory framework, the effectiveness of enforcement measures, and the balance struck between individual rights and broader public or economic interests. In *Fadeyeva v. Russia* (2005), the Court found a violation of Article 8 where authorities failed to mitigate long-term pollution from a steel plant, adversely affecting the health and living conditions of nearby residents. Similarly, in *Cannavacciuolo and Others v. Italy* (2025), failure to adequately combat illegal large-scale toxic waste pollution in the Campagna region was held to breach the State's positive obligations under Article 2, demonstrating that both immediate and cumulative environmental risks can be a basis for substantive claims.

By contrast, procedural claims focus on a State's failure to provide access to information, enable public participation, and ensure effective remedies, which are essential components of environmental protection under Articles 2, 8, 6, 10, and 13. The applicants should show that they were denied critical environmental data, that public consultations were superficial, inaccessible, or non-existent, or that domestic courts refused to examine environmental risks. Procedural deficiencies not only hinder individuals' ability to protect themselves from environmental harm but also underscore the State's broader failure to uphold Convention obligations. For example, in *Taşkin and Others v. Turkey* (2004), the non-enforcement of court orders suspending cyanide-based mining operations illustrated how procedural failures can exacerbate environmental harm and give rise to violations of Article 6. Procedural arguments are particularly persuasive when combined with substantive claims, as they demonstrate that the harm was foreseeable and preventable, yet the State failed to act or to allow meaningful scrutiny.

Strategically combining multiple Convention rights can further strengthen environmental and climate claims by capturing the full scope of harm. Invoking Article 2 in conjunction with Article 8 highlights risks to life and health from environmental hazards or climate inaction. Pairing Article 8 with Article 13 emphasises the lack of effective remedies when procedural safeguards fail. Similarly, combining Article 1 of Protocol No. 1 with Article 14 addresses disproportionate impacts on vulnerable groups or unequal exposure to environmental harm. This integrated approach enables the Court to assess cases holistically, considering both the direct impacts on individuals and systemic failures by the State, thereby reinforcing the human-rights dimension of environmental and climate cases.

2. EXAMPLES FROM THE COURT CASE LAW

As illustrated in this section, the Court's case law demonstrates that environmental and climate matters have a strong human-rights dimension when they affect individuals' health, safety or living conditions, or when States fail to provide effective regulatory and procedural safeguards. It further demonstrates that environmental activists and NGOs are recognised as key actors in protecting these interests, reinforcing the democratic and participatory foundations of environmental human-rights protection.

Industrial pollution

Pollution from industrial activities has frequently been found to affect individuals' living conditions and well-being. The Court has emphasised States' duties to regulate private actors and strike a fair balance between economic interests and individual protection.

The Court has addressed such situations in several cases. In *Fadeyeva v. Russia* (2005), the applicant lived in close proximity to a steel plant, and the Court found a violation of Article 8 due to persistent pollution and State inaction. A similar conclusion was reached in *Pavlov and Others v. Russia* (2022), where ongoing industrial air pollution and the authorities' failure to respond adequately breached Article 8. In *Dubetska and Others v. Ukraine* (2011), the residents exposed to coal and chemical pollution were found to have suffered an Article 8 violation, while *López Ostra v. Spain*(1994) established that severe odours and emissions from a waste-treatment plant interfered with home life. More recently, *Cordella and Others v. Italy* (2019) confirmed that failure to address toxic industrial conditions in Taranto violated Article 8.

Waste management and hazardous facilities

Poorly managed waste facilities and dangerous industrial installations raise serious human-rights concerns, particularly where authorities are aware of the risks. The Court has highlighted the importance of preventive measures and public access to information.

This dimension is illustrated by *Öneryıldız v. Turkey* (2004), a fatal methane explosion at a municipal waste tip revealed serious deficiencies in oversight and safety management, leading the Court to find violations of Articles 2 and 8; and *Guerra and Others v. Italy*, which stressed the duty to inform residents of environmental risks. In *Di Sarno and Others v. Italy* (2012), the Court confirmed that prolonged exposure to health-endangering waste conditions, combined with systemic regulatory failures, violated Article 8. More recently, *Cannavacciuolo and Others v. Italy* (2025) concerned residents of the *Terra dei Fuochi* area in Italy, affected by long-term environmental pollution caused by the illegal dumping and burning of hazardous waste. The applicants complained that the authorities had long been aware of the serious health and environmental risks but had failed to respond effectively. The Court agreed that the situation involved a systemic and prolonged environmental problem, not isolated incidents. It found that Italy had failed to put in place a timely, coordinated, and effective response, including adequate monitoring, risk assessment, and public information.

These shortcomings prevented residents from properly understanding and protecting themselves from the risks. The judgment confirmed that serious and long-standing environmental pollution can engage human rights protection, particularly where State inaction and lack of transparency undermine individuals' ability to live safely in their homes.

Natural disasters

Environmental harm may also arise from identifiable natural hazards where State authorities fail to take reasonable preventive or mitigating measures. The Court has recognised that disasters such as floods or landslides can have a human-rights dimension when risks are foreseeable.

Relevant examples include *Budayeva and Others v. Russia* (mudslides) and *Kolyadenko and Others v. Russia* (flooding caused by reservoir management). In *Budayeva and Others v. Russia* (2008), the authorities' failure to protect life from foreseeable mudslides led to a violation of Article 2, and in *Kolyadenko and Others v. Russia* (2012), negligent management of a water reservoir that caused destructive flooding constituted a breach of Article 2 and Article 1 of Protocol No. 1, reflecting the Court's view that failures to prevent foreseeable environmental harm can affect both life and property.

Mining and extractive activities

Extractive industries often create long-term environmental damage affecting nearby communities. The Court has underlined the need for effective environmental impact assessments, regulatory oversight, and public participation.

Court case law shows how mining activities can interfere with individuals' quality of life and health. In *Taşkin and Others v. Turkey* (2004), the authorities' failure to enforce a suspension order on a cyanide-based gold-mining operation breached Article 8, demonstrating the Court's concern with inadequate regulation of hazardous activities. Similarly, in *Tătar v. Romania* (2009), the cyanide pollution resulting from mining operations was found to violate Article 8, with the Court emphasising the importance of the precautionary principle[1] in addressing environmental risks. In *Dubetska and Others v. Ukraine* (2011), the residents exposed to coal and chemical pollution were found to have suffered an Article 8 violation.

Noise pollution and infrastructure projects

Large infrastructure projects and transport systems may generate environmental nuisance, particularly noise, affecting daily life. The Court has focused on whether authorities conducted adequate assessments and ensured fair decision-making processes. Relevant cases include *Hatton and Others v. the United Kingdom* (2003) concerning airport noise and *Moreno Gómez v. Spain* (2005) related to the night-time urban noise.

Land use and urban planning

Environmental protection measures frequently intersect with planning and land-use decisions. The Court has examined whether restrictions or planning choices strike a fair balance between environmental objectives and individual interests.

The relevant example is *Buckley v. the United Kingdom* (1996), where a refusal to grant planning permission to a Roma person who had stationed caravans on land which she owned to live there with her family, and an enforcement notice for the removal of the caravans had pursued legitimate aims under Article 8. Those decisions were taken in the context of enforcing planning controls designed to promote highway safety, environmental protection, and public health. Accordingly, the legitimate aims pursued were public safety, the economic well-being of the country, the protection of health, and the protection of the rights of others. Further, in *Kaminskas v. Lithuania* (2020), concerning an order to demolish a house which had been built unlawfully in a forest, the Court observed that environmental conservation was an increasingly important consideration in today's society, and held that the demolition measure had been aimed at the protection of the rights and freedoms of other, being intended to protect the forest, in addition to preventing disorder and promoting the economic well-being of the country. Noting that the house had been built unlawfully, the Court held that it would be reluctant to grant protection to those who, in conscious defiance of the prohibitions of the law, established a home on an environmentally protected site, as that would mean encouraging illegal action to the detriment of the protection of the environmental rights of other people in the community.

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1. The precautionary principle in environmental law, formalised in Principle 15 of the 1992 Rio Declaration, states that where threats of serious or irreversible environmental damage exist, a lack of full scientific certainty shouldn't delay cost-effective preventive measures, urging proactive action and precaution against potential harm.

Climate change

More recently, the Court has acknowledged that climate change raises serious human-rights concerns due to its impact on health, well-being, and living conditions. This development is reflected in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (2024), where the Court found that major deficiencies in national climate policy violated Article 8, while procedural shortcomings gave rise to a breach of Article 6. In *Carême v. France* (2024), although the application was declared inadmissible for lack of victim status, the Court clarified the requirements of individual vulnerability, while *Duarte Agostinho and Others v. Portugal and Others* (2024) illustrates the limits of extraterritorial jurisdiction of the Court.

Procedural environmental protection

Across environmental matters, the Court has consistently stressed the importance of procedural safeguards. These include access to information, public participation in decision-making, and effective judicial remedies.

In *Zander v. Sweden* (1993), the Court found a violation of Article 6 where applicants were denied access to judicial review of a pollution licence affecting their property.

In *Taşkin and Others v. Turkey* (2004), the authorities' failure to enforce a domestic court order suspending cyanide-based mining operations breached Article 6, illustrating the central role of effective judicial protection in environmental matters.

In *Hatton and Others v. the United Kingdom* (2003), the Court emphasised that States must ensure adequate procedural safeguards when balancing economic development with environmental and health interests.

Similarly, *Hardy and Maile v. United Kingdom* (2012) highlighted the importance of public participation and transparency in large-scale environmental decision-making processes.

The Court has also recognised the procedural dimension of environmental rights under Article 8, as seen in *Guerra and Others v. Italy* (1998), where failure to provide essential environmental information undermined the applicants' ability to protect their health and home.

More recently, in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (2024), the Court stressed that access to justice is a core component of effective climate protection under Article 6.

Environmental activists and environmental defenders

The Court has increasingly recognised the role of environmental activists and NGOs as public or social watchdogs. Environmental campaigning, criticism of environmental policies, and participation in public debate are afforded strong protection.

Key examples include *Vides Aizsardzības Klubs v. Latvia* (2004), where an environmental NGO was sanctioned for criticism of development projects, and *Steel and Morris v. the United Kingdom*, highlighting protection for environmental and social campaigning.

In *Bumbes v. Romania* (2022), the fine imposed on an activist for protesting mining projects was found to violate Articles 10 and 11, as the domestic courts had overemphasized procedural formalities and failed to consider the limited disruption caused by the applicants.

Similarly, in *Makhmudov v. Russia* (2007), the Court condemned the arbitrary ban on an environmental demonstration. In *Peradze and Others v. Georgia* (2022), the arrest of demonstrators opposing urban development and subsequent fines were likewise found to interfere unlawfully with freedom of expression.

More recently, in *Ludes and Others v. France* (2025), the Court considered the convictions of environmental activists who temporarily removed the French President's portraits in protest against the State's inaction on climate change. While the applicants were convicted of theft, the Court emphasized the public interest nature and non-violent character of their activism and the symbolic dimension of their actions, ultimately finding that the domestic authorities had not overstepped the margin of appreciation and concluded no violation of Article 10.

3. CASES FALLING OUTSIDE THE SCOPE OF CONVENTION PROTECTION: EXAMPLES

While the Court has occasionally been called upon in cases involving environmental harm, it has consistently drawn a distinction between general environmental protection and the direct impact on individual rights under the Convention. Cases such as *Kyrtatos v. Greece* (2003), *Ivan Atanasov v. Bulgaria* (2010), *Ogloblina v. Russia* (2013) and *Çiçek and Others v. Turkey* (2020) illustrate that harm to the environment-whether through urban (2013) and *Çiçek and Others v. Turkey* (2020) illustrate that harm to the environment-whether through urban development, industrial pollution, or nuisance-does not, by itself, constitute an interference with rights under Articles 6 or 8.

In *Ogloblina v. Russia* (2013), an environmental activist, challenged various deforestation and industrial activities, claiming violations of her rights under Articles 2, 6, 8 and 13, arguing that she had a "right to a clean environment." The Court declared the application inadmissible, finding that neither Article 6 nor Article 8 applied. Regarding Article 6, the Court held that the environmental proceedings were not "directly decisive" for any civil rights of the applicant. She failed to demonstrate that the actions complained of exposed her personally to a serious, specific and imminent danger; thus there was no genuine dispute about an individual civil right. Under Article 8, the Court reiterated that the Convention does not guarantee a general right to environmental protection. For Article 8 to apply, environmental harm must directly and seriously affect a person's private or family life or home. The applicant had provided no evidence that her health, living conditions, or private sphere were personally affected by the alleged deforestation or pollution. The threshold of severity required under Article 8 was therefore not met. Finally, the Article 13 complaint was rejected because there was no "arguable claim" under the Convention requiring a domestic remedy. The case confirms that general environmental concerns or activism alone do not engage Convention rights unless applicants demonstrate a concrete, personal, and sufficiently serious impact.

Similarly, activities causing noise or air pollution in breach of domestic regulations, as in *Furlepa v. Poland* (2008), *Galev and Others v. Bulgaria* (2009), and *Mileva and Others v. Bulgaria* (2010), do not automatically engage Convention protections unless there is a direct effect on the applicant's private or family life. Even when procedural avenues to challenge environmental decisions are available, as in *Zapletal v. Czech Republic* (2010), the Court has required a concrete, personal impact to find a human-rights dimension. These cases collectively demonstrate that the Convention does not provide a general right to environmental protection; interference must affect personal rights in a tangible way to trigger the Court's scrutiny.

In *Kyrtatos v. Greece* (2003), the applicants complained that urban development had destroyed a swamp near their property, diminishing the area's scenic value. The Court noted that, even assuming significant environmental damage, the applicants had not demonstrated that the harm to the area's birds and other protected species directly affected their rights under Article 8.

Further, in *Ivan Atanasov v. Bulgaria* (2010), the applicant objected to a plan to clean a tailings pond containing copper mine residue near his home, which involved spreading sewage sludge in the pond. While the Court recognised that this created an unpleasant situation, it found no evidence that the pollution affected the applicant's private sphere sufficiently to trigger Article 8 because the applicant's home was at a considerable distance from the source, the procedure did not involve sudden release of toxic substances, and no incidents had occurred affecting health. There was also no proof of direct impact on the applicant or his family.

In *Çiçek and Others v. Turkey* (2020), the applicants complained about fumes from a lime production plant a few hundred metres from their homes. The Court, noting the lack of evidence of direct impact on the applicants' quality of life, concluded that Article 8 did not apply.

Finally, in *Zapletal v. Czech Republic* (2010), a resident living near a metal car-parts factory causing noise pollution sought judicial review of the approval of the factory. The Court held that Article 6 was inapplicable because the approval procedure was not directly decisive for the applicant's civil rights. Moreover, the applicant had not demonstrated that the post-approval noise was sufficiently severe to infringe his rights, and the proceedings could not have resulted in compensation for the alleged harm.

III. Admissibility criteria

Before the Court can examine the substance of any environmental complaint, the application must satisfy the strict admissibility criteria. These requirements serve as a procedural gateway, ensuring that the Court only considers cases that are properly framed, timely, and grounded in a genuine human rights issue. For applicants seeking to challenge environmental harm - whether pollution, climate impacts, industrial risks, or failures of environmental governance - meeting these admissibility standards is often one of the most decisive stages of the process and the biggest hurdle.

Environmental cases present unique challenges: harms may unfold over long periods, scientific evidence can be complex, and many issues intersect with domestic regulatory frameworks. As a result, demonstrating victim status, exhausting domestic remedies, or establishing a sufficiently serious interference with a Convention right may require careful preparation. Understanding how these criteria operate, and how the Court has applied them, is essential to crafting an admissible application.

1. WHO CAN COMPLAIN TO THE COURT? (ARTICLE 34 OF THE CONVENTION)

To lodge an application before the Court, applicants must meet two conditions: they must fall into one of the categories of petitioners mentioned in Article 34 and must be able to make out a case that they are victims of a violation of the Convention.

Pursuant to Article 34, natural persons, non-governmental organisation and group of individuals might be the applicants. However, not every individual or organisation can qualify as a victim - the applicants must show that they have been directly or indirectly affected by the alleged violation. Article 34 also protects those who would suffer harm from the alleged violation or have a genuine personal interest in seeing it stopped.

The Court interprets the concept of "victim" autonomously and irrespective of domestic understanding, such as those concerning legal interest or capacity to act. In the Court's well-established case law, the victim-status criterion should not be applied in a rigid, mechanical, and inflexible way. Additionally, the term "victim" must also be interpreted in an evolutive manner in the light of conditions in contemporary society, as any excessively formalistic interpretation of that concept would make protection of the rights guaranteed by the Convention ineffectual and illusory.

There are three categories of victims: those directly affected by the alleged violation of the (direct victims); those indirectly affected by the alleged violation of the Convention (indirect victims); and those potentially affected by the alleged violation of the Convention (potential victims). Irrespective of whether the victim is direct, indirect, or potential, there must be a connection between the applicant and the harm claimed to result from the alleged violation of the Convention. The Convention does not allow for an *actio popularis* to challenge the interpretation of its rights, nor does it permit individuals to complain about a national law solely because they believe it may be incompatible with the Convention.

To qualify as direct victims, applicants must normally be "personally and directly affected" by the alleged violation. They can be affected by past or ongoing harm. This entails that the applicants suffered, or are at real and foreseeable risk of suffering, harm due to the State's actions or omissions. In environmental litigation, harm can include physical risks to health, interference with private or family life, or material damage to property caused by pollution, hazardous installations, or inadequate environmental regulation.

If the alleged victim of a violation has died before the submission of the application, it may be possible for the person with the requisite legal interest as next-of-kin to submit an application raising concerns related to the death or disappearance of his or her relative. In this situation, the Court examines whether relatives can be considered indirect victims of the alleged violation of the Convention suffered by the deceased direct victim. In short, indirect victims must demonstrate a "ricochet effect" created by the alleged violation affecting the direct victim on their Convention rights for them to prove harm or a valid personal interest in bringing the situation complained of to an end.

As the Convention does not permit complaints *in abstracto*, individuals are not entitled to complain simply because of the existence of incompatibilities with the Convention in the national legal order or in the practice of the State. Applicants must demonstrate that incompatibilities with the Convention are at least potentially detrimental to them. The Court may accept the existence of victim status where applicants allege that a law violates their rights, in the absence of an individual measure of implementation, if they belong to a class of people who risk being directly affected by the legislation, or if they are required either to modify their conduct or risk being prosecuted. Also, individuals who argue that they may be affected at some future point in time and only in highly exceptional circumstances may claim to be victims of a violation of the Convention owing to the risk of a future violation. Such an applicant "must produce reasonable and convincing evidence of the likelihood that a violation affecting him or her will occur as mere suspicion or conjecture is insufficient". In environmental cases, for example, in *Cordella and Others v. Italy* (2019), the Court stated that individuals are "personally affected" by the measure complained of if they find themselves in a situation "of high environmental risk", in which the environmental threat "becomes potentially dangerous for the health and well-being of those who are exposed to it".

Direct victim	Indirect victim	Potential victim
Directly affected Separate analysis under each of the Articles/rights Art. 6 – right to a fair trial (civil limb) Art. 8 - private & family life (minimum level) Art. 2 - right to life	Next of kin - related to the death or disappearance of his or her relative	Person that would be affected or is potentially affected by the environmental hazard - see *Cordella and Others v. Italy* (2019), paras. 102-105.

Establishing **victim status** is thus a fundamental prerequisite for admissibility before the Court as it ensures that the Court addresses concrete complaints rather than abstract or generalized concerns, which is particularly important in environmental and climate cases where harm may be systemic or affect large populations.

Article-specific considerations: Victim status is assessed differently depending on the Convention right invoked, as each provision imposes a distinct test:

- Article 2 (right to life): applicants must demonstrate that a serious, real, and immediate threat to life exists due to environmental hazards such as toxic spills, industrial explosions, or natural disasters by State negligence. Only individuals can claim victim status under Article 2; NGOs have legal standing only in climate cases, not in environmental ones.

- Article 8 (right to private and family life): applicants must show that environmental or climate harm directly interferes with health, well-being, home, or the quality of daily life. NGOs have legal standing only in climate cases. Proximity to the source of the pollution alone is not determinative, as in *Pavlov and Others v. Russia* (2002), the applicants were granted victim status despite residing kilometres from the industrial operations.

- Article 6 (right to a fair trial): the victim status is recognised for both individuals and NGOs, particularly when challenging administrative acts, permitting decisions, or other State actions that impact environmental rights. However, Article 6 applies only when a genuine dispute concerns a domestic-law right, and the proceedings' outcome is directly decisive for that right. The Court considers whether applicants had effective access to domestic courts and whether procedural safeguards were observed.

- Article 1 of Protocol No. 1 (protection of property): victims must show that environmental harm or State action directly affected their possessions, for example through pollution, restrictive land-use measures, or regulatory failures.

Article	Victim Status Requirements	Applicant Type / Standing	Key Considerations
Article 2 - Right to life	Must demonstrate a real and immediate threat to life from environmental hazards (e.g., toxic spills, industrial accidents, natural disasters by State negligence)	Individuals; NGOs have standing only in climate-related cases	Threat must be concrete and direct; State negligence or failure to prevent harm is relevant
Article 8 - Right to private and family life	Must show direct interference with health, home, or daily life caused by environmental or climate harm	Individuals; NGOs have standing only in climate-related cases	Harm must affect rights to private and family life and home in a tangible way; abstract environmental damage is insufficient
Article 6 - Right to a fair trial	Must demonstrate inadequate access to domestic courts or ineffective procedures in challenging environmental decisions	Individuals and NGOs	Focus on whether procedural safeguards were respected and whether judicial remedies were effective
Article 1 of Protocol No. 1 - Protection of property	Must show that environmental harm or State action directly affected possessions	Individuals (e.g. owners of property); NGOs	Includes pollution, restrictive land-use measures, or regulatory failures that interfere with property rights

Table summarising the article-specific considerations for victim status under the Convention

Further, for example, in climate-related cases (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (2024)), the Court has established an Article 8 victim status test that applies to both individuals and NGOs, with distinct criteria for each type of applicant.

For the individuals the threshold to fulfil is high as "(*a*) *the applicant must be subject to a high intensity of exposure to the adverse effects of climate change, that is, the level and severity of (the risk of) adverse consequences of governmental action or inaction affecting the applicant must be significant; and (b) there must be a pressing need to ensure the applicant's individual protection, owing to the absence or inadequacy of any reasonable measures to reduce harm.*"

With regards to NGOs, "*the association in question must be: (a) lawfully established in the jurisdiction concerned or have standing to act there; (b) able to demonstrate that it pursues a dedicated purpose in accordance with its statutory objectives in the defence of the human rights of its members or other affected individuals within the jurisdiction concerned, whether limited to or including collective action for the protection of those rights against the threats arising from climate change; and (c) able to demonstrate that it can be regarded as genuinely qualified and representative to act on behalf of members or other affected individuals within the jurisdiction who are subject to specific threats or adverse effects of climate change on their lives, health or well-being as protected under the Convention.*"

2. PROCEDURAL GROUNDS OF INADMISSIBILITY

Exhaustion of domestic remedies (Article 35 § 1 of the Convention)

The Court is intended to be subsidiary to the national systems safeguarding human rights, and it is appropriate that national courts should first determine questions regarding the compatibility of the given situation with the Convention. Therefore, before bringing a claim to the Court, applicants must demonstrate that they

have exhausted effective domestic remedies. If more than one potentially effective remedy is available, the applicant is only required to have used one of them if another remedy has essentially the same purpose. It is for the applicant to select the remedy that is most appropriate in his or her case.

Importantly, an applicant does not need to explicitly invoke the Convetion in domestic proceedings, but must raise the issue "in substance" so that national courts could have addressed it. The applicant must clearly present the same legal and factual complaint domestically, and simply bringing a case or using unrelated remedies is insufficient for exhausting domestic remedies. This means that applicants need to demonstrate that they have pursued every available legal avenue within their national system that could reasonably provide redress. If the domestic remedies were either inadequate, unavailable, or unreasonably delayed, the applicants must illustrate that pursuing them would not have effectively addressed the harm or prevented ongoing violations.

The supporting evidence should be thoroughly documented and may include court decisions, administrative correspondence, or procedural records showing repeated attempts to obtain remedies. This evidence helps the Court assess whether the exhaustion requirement has been satisfied and whether exceptions to the rule may apply, such as when remedies are manifestly ineffective or inaccessible.

For example, the climate case *Duarte Aghostinho and Others v. Portugal and 32 Others* (dec.) [GC], (2024) was declared inadmissible for non-exhaustion of domestic remedies.

Time-limit for submitting applications (Article 35 § 1 of the Convention)

Applications to the Court must be filed within four months of the final domestic decision. This deadline ensures that the case is brought promptly after applicants have exhausted all available remedies and allows the Court to address ongoing or recent violations timely and efficiently. When environmental pollution is ongoing, it may amount to a "continuing situation." In such cases, if there is no effective domestic remedy, the four-month time-limit for bringing an application to the Court does not begin to run until the harmful situation has actually ended. The Court confirmed this approach in *Cordella and Others v. Italy* (2019) and *Cannavacciuolo and Others v. Italy* (2025).

Anonymous applications (Article 35 § 2 (a) of the Convention)

Applicants need to be clearly identifiable on the application form, although the Court can allow their identity to remain confidential, using initials or a letter instead. An application is considered anonymous only if there is no information at all that allows the Court to identify the applicant, such as when associations represent unidentified individuals. Even when pseudonyms are used, or the identities of members of an organisation are not disclosed, an application is not considered anonymous if there are enough details to link the applicant to the events in question. However, keeping an applicant's identity confidential from the public does not make the application anonymous.

Substantially the same (Article 35 § 2 (b) of the Convention)

An application will be rejected where it is substantially the same as a matter which has already been examined by the Court or by another procedure of international investigation or settlement and contains no relevant new information. Applicants must also ensure that their claim does not duplicate proceedings before other international bodies. If parallel complaints exist, the application should clearly explain why the Court case addresses specific Convention rights that cannot be fully remedied elsewhere, or why domestic remedies were insufficient to protect the rights in question. Careful documentation of prior filings, decisions, and ongoing proceedings helps the Court assess admissibility and prevents the case from being rejected as duplicative. For example, the International Labour Organisation's Committee on Freedom of Association has been recognised as another procedure of international investigation or settlement. However, the Court has clarified that not all international mechanisms fall within this category. In *Cannavacciuolo and Others v. Italy* (2025), it held that infringement proceedings before the Court of Justice of the European Union do not constitute such a procedure, since they do not resolve individual cases or provide personal remedies, but instead address State compliance with EU law in abstracto. Therefore, a CJEU infringement judgment neither bars Court examination nor substitutes the individual right of application.

Abuse of the right of application (Article 35 § 3 (a) of the Convention)

The concept of "abuse" refers to using the right of individual application in a way that undermines its purpose, such as obstructing the Court's proper functioning or bringing manifestly unmeritorious claims. The conduct by an applicant or their representative that is clearly contrary to the intended use of the procedure

can be treated as abusive, and the applicants are responsible for the actions of their lawyers or representatives. Therefore, lawyers are expected to act prudently, cooperate with the Court, and avoid frivolous or vexatious complaints.

Such abuse can take several forms, including knowingly providing false or misleading information, omitting essential facts, using offensive or threatening language, intentionally breaching the confidentiality of friendly-settlement negotiations, submitting the applications that are manifestly vexatious or devoid of real purpose, or manipulating domestic remedies to gain an unfair advantage. Even politically motivated applications can constitute abuse if the applicant acts frivolously or irresponsibly towards pending proceedings. The Court has also found abuse where applicants relied on evidence obtained in violation of others' rights.

The respondent Government may bring suspected abuse to the Court's attention, but it is ultimately for the Court to determine whether abuse has occurred. The Court may also raise the issue on its own initiative. It must be noted that an abuse is treated as an exceptional measure and is applied only in serious cases where the applicant's conduct clearly undermines the purpose of the right of individual application.

3. GROUNDS FOR INADMISSIBILITY RELATING TO THE COURT'S JURISDICTION

State liability *(ratione personae)* (Article 35 § 3 of the Convention)

The applications will be declared incompatible ratione personae with the Convention on the following grounds:

- if the applicant lacks standing as regards Article 34 of the Convention (Democratic Republic of the Congo v. Belgium (2020));
- if the applicant is unable to show that he or she is a victim of the alleged violation (Trivkanović v. Croatia (2017));
- if the application is brought against an individual (Durini v. Italy (1994));
- if the application is brought directly against an international organisation which has not acceded to the Convention (Stephens v. Cyprus, Turkey and the United Nations (2008));
- if the complaint involves a Protocol to the Convention which the respondent State has not ratified (De Saedeleer v. Belgium (2007)).

The climate case *Carême v. France* (dec.) [GC] (2024) was declared inadmissible as being incompatible *ratione personae*. The case was brought by a former mayor of Grande-Synthe against France for insufficient action on global warming, alleging violations of human rights. While the Court heard the case and referred it to its Grand Chamber, it ultimately declared the application inadmissible, holding that the applicant lacked standing as an individual. The Court found that the applicant had no relevant links with GrandeSynthe and that, moreover, he did not live in France.

Further, compatibility ratione personae requires the alleged violation of the Convention to have been committed by a Contracting State or to be in some way attributable to it. "Jurisdiction" under Article 1 is a threshold criterion. The exercise of jurisdiction is a necessary condition for a State to be able to be held responsible for acts or omissions imputable to it which give rise to an allegation of the infringement of rights and freedoms set forth in the Convention. A State's jurisdictional competence under Article 1 is primarily territorial. In *Duarte Agostinho and Others v. 32 Member States* (2024), the applicants were residents of Portugal, so only Portugal had territorial jurisdiction under Article 1 of the Convention. No territorial or extraterritorial jurisdiction could be established in respect of the other States. The Court found no basis for extraterritorial jurisdiction: none of the States exercised effective control over the applicants, had authority over them, or had a jurisdictional link triggering procedural obligations under Article 2. The applicants' situation did not fit any recognised category of extraterritorial jurisdiction in the Court's case law. Although climate change has unique, global and existential features, and States have obligations to reduce GHG emissions, these factors could not justify creating a new or expanded basis for extraterritorial jurisdiction. Proposed tests such as "control over the applicants' Convention interests," reliance on positive obligations, EU citizenship, cause and effect, or the desire to facilitate broader climate litigation were rejected as incompatible with the Convention's territorial and subsidiary structure and would lead to unlimited and unforeseeable jurisdiction.

Lastly, the responsibility of States for judicial decisions concerning disputes between private persons can be engaged based on the existence of an interference with a Convention right. The *Zhidov and Others v. Russia* (2018), case concerned judicial orders to demolish unlawfully constructed buildings following requests by private companies operating gas and oil pipelines. In this case, the Court considered that such orders amounted to an interference by the authorities with the applicants' right to the peaceful enjoyment of their possessions, dismissing therefore the Government's preliminary objection of incompatibility ratione personae. In *Cannavacciuolo and Others v. Italy* (2025), concerning the illegal dumping and burying of hazardous waste on private land, the State's obligation applies as these were inherently dangerous activities which could pose a risk to human life.

Territorial jurisdiction *(ratione loci)* (Article 35 § 3 of the Convention)

The compatibility *ratione loci* requires the alleged violation of the Convention to have taken place within the jurisdiction of the respondent State or in territory effectively controlled by it.

Temporal jurisdiction *(ratione temporis)* (Article 35 § 3 of the Convention)

In accordance with the general rules of international law (principle of non-retroactivity of treaties), the provisions of the Convention do not bind a State in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the Convention in respect of that State (*Blečić v. Croatia* [GC] (2006), *Šilih v. Slovenia* [GC] (2009)). Consequently, the jurisdiction *ratione temporis* covers only the period after the ratification of the Convention or the Protocols thereto by the respondent State.

Subject-matter of the case *(ratione materiae)* (Article 35 § 3 of the Convention)

For a complaint to be compatible *ratione materiae* with the Convention, the right relied on by the applicant must be protected by the Convention and the Protocols thereto that have come into force. For example, the applications are inadmissible where they alleged a universal individual right to the protection of a specific cultural heritage (*Ahunbay and Others v. Turkey* (2019)), since those rights do not, as such, feature among the rights and freedoms guaranteed by the Convention.

It is to be noted that the vast majority of decisions declaring applications inadmissible on the ground of incompatibility *ratione materiae* concern the limits of the scope of the Articles of the Convention or its Protocols. Therefore, it is crucial to know the scope of application of the relevant Articles of the Convention. They are examined in section IV below.

4. INADMISSIBILITY BASED ON THE MERITS

Manifestly ill-founded (Article 35 § 3 (a) of the Convention)

Even when an application meets all formal admissibility requirements and is compatible with the Convention, the Court may still declare it inadmissible if, after a preliminary review, it finds no appearance of a Convention violation. This is the most common ground for inadmissibility and is referred to as a complaint being "manifestly ill-founded". The term does not mean that the flaw must be obvious at first glance; rather, it reflects the Court's assessment that the case would not lead to a finding of a violation even if fully examined on the merits.

The Court may make this finding at any stage, even after inviting detailed observations. The majority of such decisions are taken by a single judge or a three-judge committee, though Chambers or even the Grand Chamber may do so in complex cases.

The underlying rationale is the principle of subsidiarity as the domestic authorities bear primary responsibility for protecting Convention rights, and the Court intervenes only where they have clearly failed to do so. In practice, manifestly ill-founded complaints fall into four key categories:

1. "Fourth-instance" complaints - these arise when applicants ask the Court to rehear their case as if it were a court of appeal. The Court cannot re-examine domestic findings of fact, interpret national law, reassess evidence, or revisit the outcome of civil or criminal proceedings-unless national courts acted in a way that is manifestly arbitrary or devoid of fairness. This is particularly common in Article 6 cases, where the applicants confuse procedural fairness (required by the Convention) with

substantive correctness (for the domestic courts to determine). For example, in *İbrahimhakkıoğlu v. Turkey* (2018) the Court held that the applicant's complaint essentially concerns the outcome of the domestic proceedings and there was nothing in the case file that would suggest that the findings of the domestic courts were arbitrary or manifestly unreasonable.

2. Complaints showing no appearance of a violation - a complaint will be rejected if domestic decision-making was fair, lawful, and non-arbitrary, or where any interference with a qualified right (Articles 8-11) was proportionate, pursued a legitimate aim, and fell within the State's margin of appreciation. The Court applies a structured proportionality test and will reject the complaint if all criteria are satisfied. This also includes cases where well-established case law clearly shows no violation, or the absence of a violation can be inferred from existing case law even without directly comparable precedents.
3. Unsubstantiated complaints: the applicants must provide clear facts, arguments, and supporting documents. The complaints may be rejected where the applicants merely cite Convention articles without explaining how they were violated.
4. Confused or far-fetched complaints - if the application is incoherent, internally contradictory, or based on clearly impossible or invented facts, it will be declared manifestly ill-founded.

No significant disadvantage (Article 35 § 3(b) of the Convention)

The applicants must also establish that they have suffered a significant disadvantage directly attributable to the State's acts or omissions. The Court can declare a complaint inadmissible if two cumulative conditions are met: the applicant must not have suffered a significant disadvantage, and respect for human rights must not require an examination of the case on the merits.

The notion of "significant disadvantage" presupposes a minimum level of severity. Thus, the complaints concerning purely technical, trivial, or negligible interferences do not justify review by an international court. The assessment made by the Court is relative and contextual, taking into account both the applicant's subjective perception and the objective importance of what is at stake; subjective perception alone is insufficient. A complaint raising an important question of principle may meet the threshold even where the pecuniary implications are modest.

In assessing this requirement, the Court may take into account the applicant's conduct, the nature of the Convention right invoked, the seriousness of the alleged violation, and its concrete consequences. The Court also examines what was at stake in the domestic proceedings, including the potential of any chilling effect. Although financial impact is a relevant consideration, it is not determinative. Non-financial consequences-such as procedural irregularities that could influence the outcome, interferences affecting private or professional life, or consequences that engage core Convention rights-may also suffice to demonstrate significant disadvantage.

5. PRE-APPLICATION ADMISSIBILITY CHECKLIST

According to the latest statistics, in 2024, 25,990 applications were declared inadmissible or struck out of the list of cases by a single judge, a Committee, a Chamber, or the Grand Chamber, a 17% decrease compared with 2023 (31,329). Therefore, it is crucial to check if all the admissibility criteria for bringing an application to the Court are fulfilled before an application can be submitted. The checklist below will help to decide if a complaint comes within the requirements of the Convention.

The Court has set up its own admissibility checklist designed to assist potential applicants in establishing whether they fulfil the admissibility criteria for lodging an application with the Court. However, even though it may be useful as a guide, it should be noted that this checklist is not legally binding on the Court. The table below reflects the principal admissibility requirements that applicants need to assess before lodging a complaint. This is a practical tool to help the applicants verify these criteria, but it does not replace legal analysis or guarantee admissibility.

Criterion	Key Question	Relevance in Environmental / Climate Cases
Respondent State	Is the complaint directed against a Contracting State to the Convention?	Environmental harm must be attributable to a State bound by the Convention, including through regulatory failures, omissions, or inadequate enforcement.
Jurisdiction *(ratione loci / temporis)*	Did the alleged violation occur within the State's jurisdiction and after ratification?	Issues may arise in cases involving cross-border pollution, long-term environmental damage, or climate change impacts unfolding over time.
Convention right invoked	Does the complaint fall within the scope of one or more Convention rights?	Environmental harm must be linked to rights such as Articles 2, 8, 6, 13, or Article 1 of Protocol No. 1; environmental protection as such is not sufficient.
Victim status	Is the applicant personally and directly affected?	Applicants must show concrete impact (e.g. exposure to pollution, health risks, loss of home or livelihood), which can be challenging in diffuse or collective harm cases.
Significant disadvantage	Has the applicant suffered a significant disadvantage?	Minor environmental nuisances may be rejected; the Court assesses seriousness, duration, and intensity of the alleged interference.
Exhaustion of domestic remedies	Have all effective and available domestic remedies been used?	Applicants must normally pursue environmental, administrative, or constitutional remedies at national level before applying to the Court.
Time limit (Four-month rule)	Was the application lodged within four months of the final domestic decision?	Determining the "final decision" can be complex in ongoing environmental harm or continuous violations.
Causal link	Is there a causal connection between State action or omission and the alleged harm?	Establishing causation is often central in environmental cases, particularly where harm results from cumulative or indirect effects.
Compatibility *ratione materiae*	Is the complaint compatible with the subject matter of the Convention?	Purely environmental or abstract complaints without a human-rights dimension are inadmissible.
Manifestly ill-founded	Is the complaint sufficiently substantiated?	Environmental claims must be supported by evidence (scientific data, expert reports, domestic findings) to avoid dismissal at an early stage.
No duplication	Has the same matter already been examined elsewhere?	The application must not be substantially the same as one previously examined by the Court or another international body.
Abuse of the right of application	Is the application made in good faith?	Misleading submissions or misuse of the procedure may lead to inadmissibility.

6. PROCEDURAL FORMALITIES FOR MAKING AN APPLICATION

Content of an application

An application form can be downloaded from the Court's website and should be fill in electronically if possible, as it might expedite the processing of the case.

Before making an application, it is important to read through the Court's 'Application Pack' which contains a copy of the Convention, an application form, and notes for guidance. An application form should be filled in carefully and returned promptly in line with Rule 47 of the Rules of Court requirements. This rule sets out the requirements for a valid application and should be referred to before submitting the application. In summary, it must contain:

- The applicant's personal details and those of the representative (if any);
- The name of the State(s) against which the complaint is being made;
- A brief summary of the facts and the complaints;
- An indication of the Convention rights which have been allegedly violated;
- Details of the remedies which have already been used;
- Copies of the decisions given in the case by the public bodies/ courts concerned;
- The applicant's signature.

Any failure to meet these requirements-such as omitting crucial factual details, failing to reference specific Articles, or neglecting to attach supporting evidence-can result in rejection at the preliminary review stage.

The official languages of the Court are English and French, but if it's more convenient, the communication with the Registry could be done in an official language of one of the States that have ratified the Convention. During the early phase of the proceedings, the communications from the Court may also be received in that language. However, it should be kept in mind that at a later stage, specifically if the Court requests the Government to provide written comments, all communication from the Court will be in English or French, and the applicant or his/her representative will need to use English or French in any further submissions.

Before filing the application form, it could be beneficial to read:

- Rule 471 - Contents of an individual application: https://www.echr.coe.int/documents/d/echr/rule_47_eng
- Institution of proceedings: https://www.echr.coe.int/documents/d/echr/pd_institution_proceedings_eng

How to submit the application

The applications to the Court can only be made by post. If the application form is sent by e-mail or fax, the original must also be sent by post. The address of the Court is:

The Registrar
European Court of Human Rights
Council of Europe
67075 STRASBOURG CEDEX
FRANCE

Court application checklist

To avoid the most common mistakes in filling in the application form, follow the checklist below.

	Item	Action / Requirement	✓
1	Current form	Use the latest official form from the Court's website.	☐
2	Case summary	Include a clear summary of facts, alleged violations, and exhausted remedies on the form.	☐
3	Core documents	Attach copies of all official decisions or measures (translations alone are insufficient).	☐

4	Remedies & time-limit	Provide proof of exhaustion of domestic remedies and submission within four months.	☐
5	Original signatures	Applicant (and lawyer, if applicable) must sign by hand; no photocopies/faxes.	☐
6	Authorised representative	Identify the authorised representative for companies/organisations and provide proof.	☐
7	Statement of violations	Specify relevant Convention Articles and explain violations briefly.	☐
8	Remedies section	Summarise exhausted remedies or explain why unavailable/ineffective.	☐
9	Respondent state	Tick the box identifying the responsible Contracting State.	☐
10	Annex list	List all attached documents chronologically with page numbers.	☐
11	Authority section	Applicant and representative sign on the form itself (except in exceptional cases).	☐
12	Submission timing	Submit early to avoid rejection for incomplete applications.	☐
13	Resubmission	If rejected, submit a new fully completed form with all documents attached.	☐

When sending the application, a copy of the form that has been filled in, together with the original documents should be kept, so that if the Registry informs that the application was incomplete, it would be possible to resubmit a fresh and complete application without difficulty or undue delay. However, there is no guarantee that if an application form is rejected as incomplete, there will be enough time to submit a new application before the four-month time-limit. For that reason, a complete application form together with all the necessary supporting documents should be submitted in good time.

7. SUBMITTED APPLICATION

If the application form is filled out correctly, the Court's Registry will issue a letter confirming that a case file has been opened. This letter will contain a file number that must be referenced in all future communications, along with a set of barcode labels. Each document submitted to the Court thereafter should have these labels attached. The Court's Registry may also reach out to the applicant to ask for more information, documents, or clarifications. It is crucial to respond quickly to any such inquiries. If a newly opened case remains inactive for six months, it could be destroyed. Once a case has been assigned for review by the Court, any delay or failure to respond to the Registry's requests, or to provide the necessary information or documents, may be seen as a decision not to continue with the application. In such cases, the Court may choose not to review the case or may rule it inadmissible or remove it from the case list. Legal proceedings before the Court are cost-free. Any decision made regarding the case will automatically be communicated to the applicant.

8. INTERIM MEASURES

Interim measures under Rule 39 of the Rules of Court are urgent directions issued by the Court to a State to prevent imminent and irreparable harm to an applicant while a case is pending. Applicants can request them in situations where there is a risk of imminent risk or irreparable damage to a Convention right. There is no specific provision in the Convention concerning the domains in which Rule 39 will apply, requests for its application usually concern the right to life (Article 2), the right not to be subjected to torture or inhuman treatment (Article 3) and, exceptionally, the right to respect for private and family life (Article 8) or other rights guaranteed by the Convention. It is important to note that environmental harm alone does not qualify unless it directly threatens human life or health.

To succeed, applicants must clearly demonstrate both urgency and necessity, explaining why immediate action is required and why the harm would be serious and irreparable without the Court's intervention. Supporting evidence, such as medical reports, expert opinions, or official notices, should be included to substantiate the risk and its urgency.

The request should clearly describe the nature of the threat, why it is imminent, and the specific action sought from the Court. Requests must be submitted directly to the Court, following the official procedure outlined on the Court's website. Applicants are encouraged to consult the Court's Practice Direction on Interim Measures and the Factsheet on Interim Measures to ensure that the request meets procedural requirements and includes all necessary information.

IV. Translating Court case law into legal claims

Drafting legal claims under the Convention requires more than simply identifying the potentially relevant article of the Convention. A persuasive and legally sound claim must be firmly grounded in the case law of the Court.

First and foremost, a thorough knowledge of the Court's case law is essential. The Convention is a living instrument, and its provisions only acquire concrete meaning through judicial interpretation. Articles of the Convention are formulated in broad terms, and it is the Court's jurisprudence that defines their scope, the applicable legal tests, and the thresholds for finding a violation. Before drafting a claim,identify:

- the relevant Convention provision(s),
- the established principles developed by the Court,
- the criteria or tests applied in comparable cases, and
- any relevant distinctions (e.g. margin of appreciation, positive vs. negative obligations).

Without this jurisprudential foundation, a claim risks remaining abstract and unconvincing.

Once the relevant case law has been identified, the next step is to structure the legal subsumption. A clear and methodical subsumption demonstrates how the facts of the case meet the legal requirements for a violation of the Convention.

1 . KEY CONVENTION ARTICLES, HOW THEY APPLY TO ENVIRONMENTAL ISSUES AND ILLUSTRATIVE CASE LAW

To date, the Court has adjudicated close to 400 environmental cases, building a robust case law that links environmental degradation with violations of human rights. The Court recognises that environmental matters may violate rights under:

- Article 2 (right to life), where environmental risks are life-threatening.
- Article 8 (right to respect for private and family life) when exposure to pollution, noise, or nuisance negatively and severely affects health, quality of life or well-being.
- Article 1 of Protocol No. 1 (protection of property), where houses or businesses are destroyed. The Court also examined interference with property rights in the context of cases linked to hunting (for example, compulsory inclusion of land in hunting associations) and nature management.
- Articles 6 (right to a fair trial) and 13 (right to an effective remedy) where domestic procedures fail to provide adequate protection.
- Article 10 (freedom of expression), where access to information on environmental risks, the ability to disseminate such information, or participation in public debate on environmental matters is restricted, including limitations on journalists, activists, scientists, or affected individuals who seek to inform the public or criticise state action or inaction.
- Article 11 (freedom of assembly and association), where States unjustifiably restrict peaceful environmental protests, or the ability of environmental organisations and activists to organise and participate in collective action concerning environmental protection.
- Article 14 (prohibition of discrimination), where environmental burdens fall disproportionately on vulnerable groups.

Each of these articles carries distinct obligations, substantive and/or procedural, that together form a comprehensive framework for environmental accountability. Many cases involve a combination of these articles, with the Court evaluating whether the State struck a fair balance between public interests and the protection of individual rights.

Article 2 - the right to life

General overview: Article 2 protects the most fundamental right under the Convention: the right to life. States have both negative obligation, to refrain from unlawful killing or actions that directly threaten life, and positive obligation, to take preventive measures to protect individuals from known or foreseeable risks, including environmental hazards. The positive obligation primarily requires states to establish a legislative and administrative framework that effectively deters threats to the right to life, including through criminal law (*Öneryıldız v. Turkey* [GC] (2004); *Cannavacciuolo and Others v. Italy* (2025)). However, in certain circumstances, positive obligations may be fulfilled in practice even in the absence of the relevant legal provisions (*Brincat and Others v. Malta* (2014)). Article 2 also has a procedural dimension: where there are life-threatening injuries or death, States must provide an effective judicial system to establish the facts, hold responsible those accountable, and grant appropriate redress (*Erdal Muhammet Arslan and Others v. Türkiye* (2023)).

Environmental relevance: Article 2 applies where environmental risks create a serious, real, and immediate danger to life, and authorities fail to take reasonable preventive or protective measures. The term "real" risk corresponds to the requirement of the existence of a serious, genuine and sufficiently ascertainable threat to life. The "imminence" of such a risk entails an element of physical proximity and temporal proximity of the threat. These risks may arise in situations such as industrial accidents, including explosions, chemical leaks, or dam failures; natural disasters exacerbated by negligence, such as floods, landslides, or forest fires; or persistent pollution that poses serious health risks over time. States are required to establish and enforce legislative and administrative frameworks, adopt technical safety standards, ensure effective supervision and inspection, and provide the public with relevant information to allow them to assess risks. Where lives are threatened or lost, States must also conduct effective investigations, ensure accountability, and provide judicial or other remedies.

Illustrative case law:

- *Öneryıldız v. Turkey* (2004) - A municipal landfill explosion destroyed nearby homes. The Court found that Turkey violated Article 2 because it failed to prevent the foreseeable risk and adequately supervise the landfill. The Court also highlighted that the lack of effective oversight and follow-up investigations contributed to the Article 2 violation. This judgment also emphasized the need to provide the public with relevant information.
- *Budayeva and Others v. Russia* (2008) - Authorities failed to protect residents from recurring mudslides. The Court found violations due to inadequate preventive measures. It also noted that authorities did not conduct proper investigations or provide judicial recourse for affected residents.
- *Kolyadenko and Others v. Russia* (2012) - Negligent water management during floods caused destruction. The State's failure to act breached its substantive obligations under Article 2. Further, Article 2 in its procedural aspect, was also violated on account of the lack of an adequate judicial response.
- *Cannavacciuolo and Others v. Italy* (2025) - Large-scale environmental pollution from illegal waste dumping threatened life and health. The Court recognised a violation of Article 2, marking a precedent for pollution-related threats.

Practical guidance:

- Demonstrate that risk to life is "serious", and "real and immediate".
- Show authorities knew or should have known of the risk.
- Identify concrete regulatory, inspection, monitoring, or emergency response failures.
- Use scientific or expert evidence to establish foreseeability and causation.
- Highlight procedural obligations (failures to investigate or provide remedies).
- Read: Guide on Article 2 and the relevant part on Article 2 in the Guide on Environment.

Article 8 - the right to respect for private and family life and home

General overview: Article 8 guarantees respect for private life, family life, home, and correspondence. To rely on this provision, an applicant must show that the complaint concerns at least one of these interests. The Court then considers whether the claim falls within Article 8's scope and whether there has been an interfer-

ence or a failure by the State to fulfil its positive obligations. Under Article 8(2), interferences are permitted only if they are lawful, pursue a legitimate aim - such as national security, public safety, economic well-being, prevention of disorder or crime, protection of health or morals, or the rights of others - and are "necessary in a democratic society." Assessing necessity often requires balancing the applicant's Article 8 rights against competing interests protected elsewhere in the Convention.

States have both negative obligations, to refrain from acts that directly or foreseeably interfere with these rights, and positive obligations, to take preventive, protective, and remedial measures. Additionally, even if Article 8 contains no explicit procedural requirements, its procedural dimension requires States to disseminate information (active transparency), to ensure meaningful public participation, and to provide access to effective remedies.

Environmental relevance and illustrative case law:

Article 8 protects individuals from environmental and climate harms that seriously affect health, well-being, or home. Environmental harm and climate impacts may fall within the scope of this provision when they reach a threshold of seriousness or have a direct and significant effect on private life, family life, or home. This includes situations where pollution - such as air, water, waste, noise, or odour - affects a person's health or well-being. It also covers cases where the State fails to regulate hazardous or polluting activities that interfere with private or family life. A lack of transparency or dissemination of information may similarly engage Article 8. Climate inaction can also fall within the provision when its foreseeable effects endanger individuals' health or quality of life.

Negative obligations under Article 8 in environmental matters require the State to refrain from authorising or tolerating harmful activities, such as permitting excessive pollution or failing to control industrial hazards, which would interfere with private and family life. For example, in *Dzemyuk v. Ukraine* (2011), the Court highlighted that permitting ongoing pollution without adequate safeguards violated the State's negative obligations (the construction of a municipal cemetery close to a private house, exposed its occupant to an environmental risk, particularly water contamination, including his drinking water). In this case, the obligation is considered negative, as it concerns the conduct of public authorities. By contrast, where harmful activities stem from the actions of private companies, the issues of "authorising and tolerating" fall within the State's positive obligations.

In line with positive obligations, States must take necessary, reasonable, and appropriate measures to protect individuals against environmental and climatic harm caused by both public and private actors. In environmental matters, these obligations may include:

1. **Adequate legal and regulatory framework**: States must adopt laws, regulations, and administrative systems capable of safeguarding Article 8 rights in practice, including oversight and enforcement mechanisms.

Illustrative case law: Fadeyeva v. Russia (2005) - the Court found that the State had failed to establish and implement an adequate legal and regulatory framework to protect the applicant from pollution. Although legislation existed to regulate the plant and maintain a safe zone, it was not enforced, and no effective measures were provided to mitigate the applicant's exposure or relocate her. The State authorised a polluting enterprise in a densely populated area without ensuring practical protections, leaving the applicant without realistic recourse. As a result, despite the State's margin of appreciation, it did not strike a fair balance between community interests and the applicant's right to respect for her home and private life.

2. **Preventive and operational measures:** authorities must take preventive measures against known or foreseeable risks and adopt remedial action where harm occurs.

Illustrative case law: Giacomelli v. Italy (2006) - the Court found that the procedural machinery provided for in domestic law for the protection of individual rights, in particular the obligation to conduct an environmental-impact assessment prior to any project with potentially harmful environmental consequences and the possibility for any citizens concerned to participate in the licensing procedure and to submit their own observations to the judicial authorities and, where appropriate, obtain an order for the suspension of a dangerous activity, had been deprived of useful effect in the present case for a very long period.

3. **Active transparency:** States must provide timely and accurate information on environmental risks. Where appropriate, they must also ensure that the members of the public have access to the information necessary to assess the risks to which they are exposed. And, in the sphere of dangerous activities, the persons exposed to a health risk must have access to available information enabling them to assess the risk, including outside of any decision-making process. However, the regime of access to information is covered by Article 10.

Illustrative case law: Guerra and Others v. Italy (1998) - the Court ruled that the respondent State had failed in its obligation to safeguard the applicants' right to respect for their private and family lives because it had left them waiting for essential information that would have enabled them to assess the risks they and their families might run if they continued to live in a town which had also been exposed to danger in the event of an accident at the factory.

In *CCannavacciuolo and Others v. Italy* (2025), even if the Court did not examine the complaint on the alleged breach of Article 8 on account of a failure to provide the applicants with information on health risks, the Court found that the Italian State violated the applicants' rights by failing to provide residents in the *Terra dei Fuochi* region with timely, accessible information about health and environmental risks arising from decades of illegal waste dumping, burning, and burying. The Court emphasised that the authorities did not put in place a comprehensive and accessible communication strategy to inform the affected public of the dangers and the measures taken to address them. As part of the pilot-judgment measures, the Court ordered the State to develop a comprehensive strategy, including an independent monitoring mechanism and a public information platform to gather and structure all relevant information on the environmental situation and the actions taken or planned, with regular updates. This reflects the principle that States must ensure not only that environmental risks are addressed but also that affected individuals are properly informed so they can understand and mitigate those risks.

4. **Public participation:** States must ensure transparent, inclusive decision-making for environmentally or climate-sensitive activities, allowing public participation and access to relevant studies. Public authorities must assess risks and balance competing interests, while procedural safeguards ensure that public views are genuinely considered.

Illustrative case law: Grimkovskaya v. Ukraine (2011) - the Court attached importance to the fact that the State had failed to demonstrate that that decision had been preceded by an appropriate environmental feasibility study and followed by the adoption of a reasonable environmental management policy; or that the applicant had had any significant opportunity to contribute to the decision-making process, in particular by challenging the municipal policies before an independent body. The Court deduced that, in view of those two factors and having regard to the Aarhus Convention, the requisite fair balance had not been struck. In *Greenpeace Nordic and Others v. Norway* (2025), the Court dealt with similar procedural obligations in the climate context. The case concerned Norway's 2016 decision to grant petroleum exploration licences in the Barents Sea without a fully comprehensive environmental impact assessment (EIA) of the climate effects, including greenhouse gas emissions. The Court clarified that States must, before authorising activities with significant environmental or climate impacts, conduct an adequate, timely, and comprehensive EIA in good faith and based on the best available science, quantifying anticipated emissions and ensuring informed public consultation when all options remain open. Although the Court ultimately found no violation of Article 8 on the specific facts - because the regulatory framework ensured a full climate assessment before any extraction could proceed - the judgment underlines the importance of procedural safeguards like robust EIAs and public participation as essential to striking the fair balance required by Article 8.

5. **Effective judicial remedies:** States must guarantee access to judicial or administrative remedies as individuals must be able to appeal any decision, act, or omission if they believe their interests or input were not adequately considered in the decision-making process.

Illustrative case law: Taşkin and Others v. Turkey (2004) - the Court noted that the applicants had access to information, public participation, and judicial review, and that the Supreme Administrative Court had annulled the operating permit on the basis of the State's positive obligations under the right to life and environmental protection, finding serious risks to human health and the ecosystem. However, the authorities failed to promptly enforce the binding judgment, and they later authorised continued operation through a non-public decision. The Court held that this rendered the judicial remedies ineffective and deprived the procedural safeguards of any practical effect.

Climate change relevance and illustrative case law: Article 8 encompasses a right for individuals to effective protection by the State from serious adverse effects of climate change on their life, health, well-being and quality of life. To fulfil its positive obligations, States' primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects of climate change. In addition to these mitigation measures, States should take adaptation measures aimed at alleviating the most severe or imminent consequences of climate change. Such adaptation measures must be put in place and effectively applied in accordance with the best available evidence and consistent with the general structure of the State's positive obligations in this context. Finally, information held by public authorities of importance for setting out and implementing the relevant regulations and measures to

tackle climate change must be made available to the public, and in particular to those persons who may be affected by the regulations and measures in question or the absence thereof. In this connection, procedural safeguards must be available to ensure that the public can have access to the conclusions of the relevant studies, allowing them to assess the risk to which they are exposed. At the same time, procedures must be available through which the views of the public, and in particular the interests of those affected or at risk of being affected by the relevant regulations and measures or the absence thereof, can be taken into account in the decision-making process.

Illustrative case law: *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [GC]* (2024); *Carême v. France* (2024); *Duarte Agostinho and Others v. 32 Member States*; *Greenpeace Nordic and Others v. Norway* (2025).

Practical guidance:

- Apply the test to determine if there has been a violation. First, the case must involve a protected right. Second, there must be an interference with that right. Third, the interference must be in accordance with the law. Fourth, it must pursue a legitimate aim outlined in Article 8(2) (such as national security, public safety, or the economic well-being of the country). Finally, a proportionality test is conducted to ensure the interference was necessary in a democratic society.
- Show a serious, direct, and personal impact on health, home, or quality of life.
- Establish knowledge of the risk by the authorities and failure to act.
- Identify regulatory or procedural failures (enforcement, transparency, participation).
- Gather expert and scientific evidence.
- Combine substantive and procedural arguments; consider linking with Articles 14 or 13.
- Read: Guide on Article 8 and the relevant part on Article 8 in the Guide on Environment.

Article 1 of Protocol No. 1 - protection of property

General overview: Individuals have the right to the peaceful enjoyment of their possessions. Under Article 1 of Protocol No. 1, States must avoid unjustified interference with property and provide just compensation when property is adversely affected by environmental measures or inaction resulting in environmental degradation.

It should be assessed whether restrictions aimed at environmental protection or impacts of environmental degradation amount to an interference with property rights under Article 1 of Protocol No. 1. Whenever a property right is engaged, including through environmental regulation or environmental harm, the Court applies a structured analytical approach. First, it asks whether there is a "possession," a concept that covers not only land but also business interests, licences, and claims with economic value; environmental restrictions or pollution may therefore affect protected possessions. Second, the Court considers whether there has been an interference and, if so, classifies it as a deprivation, where the substance of ownership is extinguished; a control of use, where regulation limits how the property may be used; or a more general form of interference that does not fit neatly into either category, which is common in environmental cases involving multiple regulatory measures. Third, the Court examines whether the interference is justified. Any interference must be lawful and pursue a legitimate public or general interest. If these requirements are not met, the Court will usually find a violation without further analysis.

Where they are satisfied, the Court proceeds to a proportionality assessment, asking whether a fair balance has been struck between the demands of the general interest and the protection of the individual's property rights. In conducting this analysis, the Court considers factors such as the severity of the interference, whether the individual has had to bear an excessive or disproportionate burden, the availability of procedural safeguards, and, where relevant, the presence or absence of compensation. A measure will violate property rights if it places an individual burden that is excessive in relation to the public interest pursued.

Environmental relevance and illustrative case law: Article 1 of Protocol No. 1 does not guarantee a right to enjoy one's property in a pleasant or unchanged environment (*Płachta and Others v. Poland* (2014)). However, environmental damage, industrial accidents, or natural disasters may lead to the destruction, deterioration, or loss of value of property. In such cases, States can be held responsible under Article 1 of Protocol No. 1 either because of a failure to fulfil their positive obligations to protect property rights or due to interference directly attributable to public authorities.

This provision applies in a range of environmental contexts. For example, when property is damaged or devalued by pollution, industrial activity, or natural disasters, States may be responsible for failing to prevent

or mitigate harm. However, in *Budayeva and Others v. Russia* (2008), the Court did not find a violation where the authorities failed to protect homes from mudslides, as the authorities enjoyed a wider margin of appreciation in making risk assessments and deciding what measures to take to protect individuals' possessions from weather hazards.

Similarly, Article 1 of Protocol No. 1 is engaged when land use is restricted for environmental or planning purposes without just compensation. In *Fredin v. Sweden (No. 1)* (1991), the revocation of a gravel extraction licence was deemed compatible with A1P1 because environmental protection was a legitimate public interest and the measure was proportionate. By contrast, in *Turgut and Others v. Turkey* (2008), the annulment of title deeds without any compensation was found to be disproportionate, illustrating that restrictions must be balanced with property rights. *O'Sullivan McCarthy Mussel Development Ltd v. Ireland* (2018) also illustrates how the Court applies the fair-balance requirement under Article 1 of Protocol No. 1 in an environmental context. In that case, the applicant company's mussel seed fishing business suffered losses after the Irish Government temporarily prohibited fishing to comply with European environmental law obligations, but the Court found no violation of Article 1 of Protocol No. 1. It held that the interference constituted a control on the use of property and that the restriction was lawful and pursued legitimate environmental aims without imposing a disproportionate burden on the company, which was still able to resume activity once compliance was achieved; overall, the State struck a fair balance between the community's general interest in environmental protection and the company's property rights.

The Court consistently recognises environmental protection as a legitimate public interest capable of justifying restrictions on property rights. In *Hamer v. Belgium* (2007), the demolition of an illegally built house in a protected forest area was upheld as proportionate and lawful, and no compensation was required. This case demonstrates that environmental measures may justifiably interfere with property when they pursue a coherent and lawful aim.

Article 1 of Protocol No. 1 imposes positive duties on States to protect property from environmental harm. States must take reasonable and appropriate steps to prevent foreseeable damage caused by private or public activities and ensure effective judicial protection.

Practical guidance:

- ► Determine if there is a "possession" (land, business rights, licenses, economic claims).
- ► Identify interference (deprivation, control of use, general interference).
- ► Assess whether interference is lawful, serves legitimate public interest, and is proportionate.
- ► Consider severity, individual burden, procedural safeguards, and compensation.
- ► Read: Guide on Article 1 of Protocol No. 1 and the relevant part on Article 1 of Protocol No. 1 in the Guide on Environment.

Article 6 - right to a fair trial in civil matters

General overview: Article 6 guarantees the right to a fair trial in the determination of civil rights and obligations. To engage Article 6, the matter must constitute a civil dispute with a direct and decisive effect on legally recognised rights or obligations. Mere general interest claims, remote consequences, or abstract concerns are insufficient. Under its civil limb, Article 6 guarantees that disputes concerning an individual's civil rights and obligations are determined by a court within a reasonable time. This obligation requires States to organise their civil justice systems so that proceedings do not subject parties to prolonged uncertainty or undue delay. In assessing whether the length of civil proceedings is excessive, the Court considers the overall duration of the proceedings and evaluates the case in light of its complexity, the conduct of the parties, the conduct of the judicial authorities, and the importance of the dispute for the applicant. It is worth noting that administrative proceedings may also fall within the scope of Article 6 where they concern "civil rights and obligations", which is particularly relevant in the environmental field, since most environmental procedures are conducted before administrative authorities and courts. The applicants must show that the dispute is personal, tangible, and capable of a decisive outcome. Acting solely as a general "public watchdog" is insufficient unless the applicant can demonstrate a concrete impact on legally recognised civil rights. The Court has set out detailed criteria for the applicability of Article 6 under its civil limb:

1. Existence of a dispute over civil rights or obligations - there must be a genuine contestation concerning rights recognised under domestic law, either as to their existence, scope, or exercise.
2. Genuine and serious dispute - the matter must be substantive and arguable, not trivial or hypothetical.

3. Direct and decisive outcome - the proceedings must have a tangible effect on the applicant's civil rights. Mere tenuous connections or general public-interest arguments are insufficient.

4. Environmental and climate relevance**:** Article 6 is increasingly important in environmental and climate litigation, as it provides procedural guarantees in disputes where environmental measures-or failures to adopt such measures-affect civil rights. The Court recognises that environmental harms can have a direct and measurable impact on rights such as health, bodily integrity, use and enjoyment of property, or the ability to continue an economic activity. Article 6 may apply in cases involving:

- Pollution and industrial hazards: disputes over exposure to air pollution, toxic emissions, noise, waste management, or industrial accidents can affect health and property interests directly enough to constitute civil rights disputes.
- Land-use and planning decisions: challenges to zoning, infrastructure projects, construction permits, wind farms, waste sites, mining operations, or urban development may engage this provision where these decisions determine how individuals can use or enjoy their land, or directly affect their living environment.
- Regulation of harmful activities: claims seeking cessation of environmentally harmful operations - such as extractive activities, deforestation, water extraction, or industrial production - may fall under Article 6 when individuals' rights are directly impacted.
- Judicial review of environmental approvals or omissions: Article 6 applies when domestic courts' decisions on permits, environmental assessments, enforcement failures, or regulatory omissions have a decisive impact on civil rights. This includes cases where the applicant seeks enforcement of existing legislation meant to protect their health or property.
- Climate-related claims: following *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024), environmental or climate associations may benefit from Article 6 where the dispute bears directly on their members' legally protected interests. For individuals, Article 6 may apply where climate-related risks, such as extreme heat, flooding, or instability of land, pose sufficiently concrete hazards to life, health, or property. However, the Court maintains strict limits, and applicants must still show that the proceedings were directly decisive for their civil rights. Thus, the general demands for improved climate policy or abstract challenges to national targets will not be sufficient unless there is a clear, individualised link to the rights guaranteed by the Convention or its protocols.

In practice, Article 6 does not generally apply to claims brought solely to protect the environment in the abstract or in the public interest. However, the Court has developed a flexible approach where associations or NGOs act to defend specific rights or interests rather than pursuing a pure *actio popularis*. The Court accepts Article 6 applicability where an association:

- seeks to protect specific rights and interests of its members (*Gorraiz Lizarraga and Others v. Spain* (2004));
- asserts a right it holds as a legal person, such as the public's right to access environmental information or to participate in environmental decision-making (Collectif national d'information et d'opposition à l'usine Melox - *Collectif Stop Melox and Mox v. France* (2006)); or
- is acting in a way that cannot be considered *actio popularis*, as in *L'Érablière A.S.B.L. v. Belgium* (2009).

The Court has repeatedly emphasised the important role of environmental associations and has therefore stressed the need for flexibility in assessing the applicability of Article 6 to their complaints (*Association Burestop 55 and Others v. France* (2021)).

In *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024), the Court applied this flexible approach in the context of climate-change litigation. It held that an environmental association challenging the State's failure to meet statutory emission-reduction targets had a direct and sufficient link to its members' civil rights, specifically their rights to life, health, and physical integrity. The Court emphasised the particular role played by associations in climate cases, recognising that the applicant organisation had a real and sufficiently close connection both to the subject matter and to the individuals seeking protection from climate-related harms. The association thus functioned as a legitimate vehicle for defending the rights of those affected. However, the Court drew a clear distinction regarding the individual applicants: it found that the domestic proceedings were not directly decisive for their civil rights because the harmful effects of governmental inaction on climate change were not "imminent and certain".

Illustrative case law:

- *Zander v. Sweden* (1993) - a denial of judicial review for pollution permits violated Article 6 as the outcome would have decisively affected the applicants' rights (their ability to use water in their well for drinking purposes and such ability was one facet of the right of property).
- *Balmer-Schafroth and Others v. Switzerland* (1997); *Athanassoglou and Others v. Switzerland* [GC] (2000) - confirmed that disputes over the scope or exercise of civil rights fall within the civil limb.
- *Taşkin and Others v. Turkey* (2004) - non-enforcement of protective court orders in environmental matters breached Article 6.
- *Cangı and Others v. Türkiye* (2023) - the applicants challenged a ministerial decision approving an environmental impact study for cyanide-based gold extraction. The Court held that Article 6 applied to those applicants living or owning property near the mine, as the proceedings were "directly decisive" for their constitutional right to live in a healthy environment. Other applicants, acting as broader public watchdogs but living farther away, were rejected as inadmissible because they lacked a direct personal interest. This underscores that proximity and personal stake are crucial for civil-limb claims.

Practical guidance:

- Establish a genuine dispute over a recognised civil rights or obligations, directly affected by State action or inaction.
- Demonstrate that the outcome of the proceedings will be directly decisive for the claimed right.
- Gather evidence demonstrating harm, legal rights affected, and insufficiency of domestic remedies.
- Consider complementary Articles (e.g., Articles 2 or 8) where environmental or climate harms intersect with life or private life rights to strengthen the claim.
- Read: Guide on Article 6 Civil and the relevant part on Article 6 in the Guide on Environment.

General overview: Article 13 guarantees access to effective domestic remedies when Convention rights are violated. This provision is engaged when domestic law fails to provide a mechanism, or when remedies are ineffective, unavailable, or unreasonably delayed. Article 13 is complementary to substantive rights, such as Articles 2 and 8, providing a mechanism to enforce them effectively. The right to an effective remedy applies even if the substantive violation has not yet occurred, provided there is a real and imminent risk of harm.

Environmental relevance: In environmental and climate litigation, this procedural safeguard ensures that individuals or groups can challenge harmful actions or omissions by the State, including regulatory failures, industrial pollution, or inadequate climate measures. It is particularly important in environmental and climate cases because harm often accumulates over time, and early judicial intervention can prevent irreversible damage. For example, Article 13 protects the right to seek preventive measures against hazardous waste, industrial emissions, or unsafe mining operations.

Illustrative case law:

- *Hatton and Others v. the United Kingdom* [GC] (2003) - the Court examined remedies in the context of environmental noise pollution.
- *Kolyadenko and Others v. Russia* (2012) - even if the Court found no violation, the failure to prevent flooding and pollution triggered Article 13 scrutiny.
- *Di Sarno and Others v. Italy* (2012) and *Cordella and Others v. Italy* (2019) - demonstrated the procedural obligations of the State in environmental contamination cases.
- *Kotov and Others v. Russia* (2022) - confirmed the State's duty to provide accessible and effective remedies for environmental harm.

Practical guidance:

- Identify gaps in domestic remedies.
- Demonstrate remedies were inadequate, inaccessible, or delayed.
- Document attempts to seek relief.
- Link Article 13 to substantive rights (Articles 2, 8).
- Read: Guide on Article 13 and the relevant part on Article 13 in the Guide on Environment.

Article 10 - the freedom of expression

General overview: Article 10 guarantees the right to freedom of expression. This right includes the freedom to hold opinions, to receive and impart information and ideas without interference by public authorities.

It covers all forms of expression, including spoken, written, artistic, and digital communication. However, the right is not absolute: it may be subject to restrictions that are "prescribed by law" and necessary in a democratic society for legitimate aims such as protecting national security, public safety, public health, the rights of others, or preventing disorder or crime. The Court applies a proportionality test to ensure that any interference strikes a fair balance between the individual's right to expression and the interests of the wider community. Certain forms of expression, such as political speech or issues of public interest, enjoy particularly high protection, while coercive or violent actions fall outside the scope of protection.

Environmental relevance: Environmental demonstrations and campaigns fall within the scope of freedom of expression under Article 10, even if they cause disorder or obstruction. The Court has consistently recognised protests and campaigns against activities such as hunting, urban development, oil drilling, coal burning, and climate inaction as protected expressions of opinion, including actions organised by environmental NGOs like Greenpeace. Non-violent activist protests, even where they involve deliberate minor criminal offences to attract public attention, are generally covered by Article 10.

The expression on environmental matters enjoys a particularly high level of protection because issues such as environmental protection, public health, animal welfare, climate change, and sustainable development are matters of general interest. This applies to a wide range of topics, including pollution, deforestation, infrastructure projects, nuclear energy, water quality, mining, and climate change, as well as to political and activist speech by elected representatives or candidates committed to ecological causes. As a result, States have a narrow margin of appreciation when responding to such acts of expression.

However, this enhanced protection does not extend to forms of expression that amount to coercion or involve serious disruption, in which case States enjoy a broader margin of appreciation. That said, non-violent obstructive actions may still be protected where domestic authorities fail to properly assess the actual level of disturbance caused. The Court has also found violations of Article 10 where arrests or detentions of environmental activists were unlawful, concluding that such interferences were not "prescribed by law" and therefore unjustified.

Finally, the Court recognises the special role of environmental NGOs and activist groups as public watchdogs. Like the press, they play a crucial role in disseminating information and contributing to public debate on the actions of public authorities. Accordingly, environmental organisations and even informal activist groups benefit from a high level of protection when exercising their freedom of expression in matters of environmental and public interest.

Illustrative case law:

- *Bryan and Others v. Russia* (2023) - Greenpeace activists highlighting the environmental effects of oil drilling.
- *Friedrich and Others v. Poland* (2024) - Greenpeace activists protesting coal transport and promoting renewable energy.
- *Ludes and Others v. France* (2025) - Removal of presidential portraits to protest climate inaction; non-violent activist protest partially involving a minor criminal offence.
- *VgT Verein gegen Tierfabriken v. Switzerland* (2001) - Animal protection campaigns and broadcasting restrictions.
- *Steel and Morris v. United Kingdom* (2005) - Environmental and public health concerns over farming and employment practices.
- *Šabanović v. Montenegro and Serbia* (2011) - Water quality.
- *Sapundzhiev v. Bulgaria* (2018) - Exposure to pollution and disturbances.
- *Cangı v. Turkey* (2019) - Submersion of an ancient site due to a dam; role of NGOs.
- *Kılıçdaroğlu v. Turkey* (2020) - Construction of hydro-electric power stations.
- *Association Burestop 55 and Others v. France* (2021) - Radioactive waste storage risks.
- *Bumbeş v. Romania* (2022) - Non-violent protest against mining projects.
- *Animal Defenders International v. United Kingdom* [GC] (2013) - NGOs' role in environmental debate.

Practical guidance:

- Demonstrate that expression concerns environmental matters of general interest.
- Highlight the public watchdog role of NGOs or activist groups.
- Read: Guide on Article 10 and the relevant part on Article 10 in the Guide on Environment.

Article 14 - the prohibition of non-discrimination

General overview: Article 14 protects individuals from discrimination in the enjoyment of the rights and freedoms guaranteed by the Convention. It ensures that everyone is entitled to these rights without distinction based on characteristics such as sex, race, colour, language, religion, political or other opinions, national or social origin, association with a minority, property, birth, or other status. Article 14 is not a free-standing right; it operates only in connection with another Convention right. The Court examines whether differences in treatment have an objective and reasonable justification, pursue a legitimate aim, and are proportionate. Arbitrary or unjustified discrimination, especially against vulnerable or marginalised groups, is prohibited.

Environmental relevance: Discriminatory exposure to environmental harm or exclusion from environmental protection may breach Article 14. Vulnerable or marginalised groups - including low-income communities, minorities, or the elderly - may face disproportionate environmental burdens. For example, minority or low-income communities may be disproportionately exposed to hazardous sites or waste facilities. Individuals may also face unequal access to clean water or other essential environmental services. Article 14 can be invoked alongside Articles 2, 8, or A1P1 to address environmental inequality or injustice.

Reference case law: *Sejdić and Finci v. Bosnia and Herzegovina* (2009) - Established general equality principles.

Greenpeace Nordic and Others v. Norway (2025) - Although the Court found the application inadmissible on "victim status" grounds with respect to the individual applicants, the case highlights an important aspect of discrimination: not all climate-related concerns will automatically satisfy Article 14's threshold unless applicants can demonstrate that they are personally and directly affected.

Practical guidance:

- Identify comparator groups and demonstrate differential treatment or impact.
- Demonstrate a lack of objective and reasonable justification.
- Link discrimination to underlying environmental rights (e.g. Articles 2, 8, Article 1 of Protocol No. 1)
- Read: Guide on Article 14 and Article 1 of Protocol No. 12.

Table summarising all the articles, their obligations, environmental relevance, and key illustrative cases

Article	Rights	State Obligations	Environmental / Climate Relevance	Key Illustrative Cases	Practical Guidance (Summary)
Art. 2 - Right to life	Right to life; procedural and substantive dimensions	Negative: refrain from unlawful killing or acts threatening life; Positive: prevent foreseeable risks, adopt legislative & administrative frameworks, conduct effective investigations	Applies where environmental risks create serious, real, and immediate danger to life (industrial accidents, natural disasters, chronic pollution, climate risks)	Öneryıldız v. Turkey (2004), Budayeva v. Russia (2008), Kolyadenko v. Russia (2012), Cannavacciuolo v. Italy (2025)	1. Demonstrate risk is serious and immediate 2. Show authorities knew or should have known 3. Identify regulatory failures 4. Provide expert evidence 5. Emphasize procedural failures
Art. 8 - Right to private and family Life, Home	Respect for private life, family life, home, correspondence	Negative: refrain from acts harming rights; Positive: preventive/protective/ remedial measures, access to information, participation, remedies	Protects against environmental and climate harms affecting health, well-being, or home; includes pollution, industrial hazards, climate inactionw	Fadeyeva v. Russia (2005), Giacomelli v. Italy (2006), Guerra v. Italy (1998), Grimkovskaya v. Ukraine (2011), Taşkın v. Turkey (2004), Verein KlimaSeniorinnen Schweiz v. Switzerland (2024)	1. Follow five-step test (protected interest interference lawful legitimate aim proportionality) 2. Show serious impact on health/home 3. Authorities knew or should have known 4. Identify regulatory/procedural failures 5. Gather expert evidence 6. Combine substantive & procedural arguments; link with Art. 14 / 13 if relevant
Art. 1 of Protocol No. 1 - Protection of property	Peaceful enjoyment of possessions	Negative: avoid unjustified interference; Positive: prevent foreseeable damage, provide judicial protection	Engaged where environmental damage, industrial accidents, natural disasters, or land-use restrictions affect property	Budayeva v. Russia (2008), Fredin v. Sweden (No.1,1991), Turgut v. Turkey (2008), Hamer v. Belgium (2007)	1. Confirm existence of possession (land, business rights, licenses) 2. Identify interference type (deprivation, control of use, general) 3. Assess justification (lawful, legitimate aim, proportionate) 4. Evaluate severity, individual burden, procedural safeguards, compensation
Art. 6 - fair trial (civil limb)	Right to a fair trial	Ensure disputes over civil rights are adjudicated fairly, within reasonable time	Applies where environmental or climate harms affect civil rights (health, property, economic activity); also relevant for associations acting on behalf of members	Zander v. Sweden (1993), Balmer-Schafroth v. Switzerland (1997), Taşkın v. Turkey (2004), Cangı v. Türkiye (2023), Verein KlimaSeniorinnen Schweiz v. Switzerland (2024)	1. Show genuine dispute over civil rights 2. Demonstrate outcome is directly decisive 3. Provide evidence of harm and insufficiency of domestic remedies 4. Link with Articles 2 or 8 where appropriate
Art. 13 - effective remedy	Access to effective domestic remedies	Provide accessible, timely, and capable mechanisms to prevent or redress rights violations	Ensures challenges to harmful environmental actions or regulatory failures; early intervention prevents irreversible damage	Hatton v. UK (2003), Kolyadenko v. Russia (2012), Di Sarno v. Italy (2012), Cordella v. Italy (2019), Kotov v. Russia (2022)	1. Identify gaps in domestic remedies 2. Demonstrate remedies were inadequate, inaccessible, or delayed 3. Document attempts to seek relief 4. Link claims to substantive rights (Arts. 2, 8)
Art. 10 - freedom of expression	Freedom to hold opinions, receive and impart information	Negative: refrain from censorship; Positive: ensure public debate, protect NGOs/activists	Covers environmental campaigns, protests, NGO advocacy; protects political/environmental speech; narrow margin of appreciation for State	Steel v. UK (1998), Bryan v. Russia (2023), Ludes v. France (2025), Friedrich v. Poland (2024), Animal Defenders International v. UK (2013)	1. Demonstrate issue concerns environmental matters of general interest 2. Highlight NGO/watchdog role

2. DRAFTING THE LEGAL ARGUMENT

The following section provides a concise and adaptable structured model for legal subsumption under the Convention. It is intended to help connect facts, legal norms, and potential violations.

Model legal subsumption

I. Applicability

The present complaint falls within the scope of Article [X] of the Convention. The applicant is directly and personally affected by the impugned situation and therefore qualifies as a victim within the meaning of Article 34 of the Convention. The interests at stake - namely [life / private life / home / property / freedom of expression / access to court] - are protected by Article [X], and the impact complained of reaches the minimum level of seriousness required by the Court's case law.

II. Nature of the obligation

Article [X] imposes both negative and positive obligations on the respondent State. In the present case, the complaint concerns the State's failure to comply with its positive obligations, namely its duty to adopt and effectively implement a legislative, administrative, and regulatory framework capable of protecting the applicant's Convention rights in practice.

Where relevant, the case also engages the procedural dimension of Article [X], which requires effective decision-making processes, access to relevant information, public participation, and judicial remedies.

III. Existence of an interference/failure to act

The applicant submits that there has been an interference with the exercise of his/her rights, or alternatively a failure by the authorities to take reasonable and appropriate measures to prevent a foreseeable and serious risk. The interference is attributable to the State, as it resulted from the authorities' knowledge of the risk; their regulatory or supervisory powers over the activity in question; and their omission to act despite that knowledge.

A direct causal link exists between the State's inaction and the harm (or risk of harm) suffered by the applicant.

IV. Justification of the interference (where applicable)

Any interference with Article [X] must satisfy the conditions set out in paragraph 2 of that Article.

1. Lawfulness

The interference was not in accordance with the law, as the applicable domestic framework was either insufficient, inadequately enforced, or applied in an arbitrary or inconsistent manner. Alternatively, even if a legal basis existed, it lacked the necessary accessibility, foreseeability, or safeguards against abuse.

2. Legitimate Aim

While the respondent State may argue that the measures pursued a legitimate aim-such as public safety, economic well-being, or the protection of health or morals-this alone is insufficient to justify the interference.

3. Necessity in a Democratic Society / Proportionality

- The interference was not necessary in a democratic society, as it failed to strike a fair balance between the demands of the general interest and the applicant's human rights. In particular:
- the interference was severe and prolonged;
- the applicant was required to bear an excessive individual burden;
- effective procedural safeguards were lacking; and
- less intrusive measures were available but not considered or implemented.

Accordingly, the State exceeded its margin of appreciation.

V. Procedural failures (where relevant)

The respondent State also failed to comply with its procedural obligations under Article [X]. In particular, the applicant:

- lacked access to timely and accurate information;
- was excluded from meaningful participation in the decision-making process; and/or
- was denied effective judicial remedies capable of preventing or redressing the violation.

These procedural shortcomings further undermine the proportionality of the interference.

VI. Conclusion

In light of the above, the respondent State failed to comply with its obligations under Article [X] of the Convention. The interference with the applicant's rights was neither lawful nor proportionate and did not strike a fair balance between the competing interests at stake.

There has therefore been a violation of Article [X].

Optional (to be added when relevant)

Article 13: The absence of effective remedies at domestic level constitutes a separate violation of Article 13, as the applicant lacked an accessible and effective means of preventing or challenging the violation.

Article 14: The applicant was disproportionately affected compared to relevant comparator groups, without objective and reasonable justification, resulting in discrimination contrary to Article 14 taken in conjunction with Article [X].

Example of a legal subsumption adapted to Article 8

As the majority of environmental and climate-related cases are adjudicated under Article 8, here is an example of a legal subsumption adapted to Article 8.

Applicability: The applicant is a victim within the meaning of Article 34 of the Convention. The complaint concerns the applicant's private life and home, which fall within the scope of Article 8. The environmental interference complained of has had a direct, serious, and personal impact on the applicant's health, well-being, and enjoyment of the home, thereby attaining the minimum level of severity required under the Court's case law.

Nature of the obligation: Article 8 imposes both negative and positive obligations on the respondent State. The present case concerns the State's positive obligation to adopt and effectively implement a legislative and administrative framework capable of protecting individuals from serious environmental harm, including harm caused by public or private actors. The case also engages the procedural dimension of Article 8, which requires transparent decision-making, access to relevant information, public participation, and effective remedies.

Interference / failure to act: The applicant submits that the authorities failed to take reasonable and appropriate measures to prevent or mitigate environmental harm affecting the applicant's private life and home. The competent authorities knew or ought to have known of the environmental risk, which was foreseeable and ongoing, yet failed to regulate, supervise, or enforce applicable standards effectively. A sufficiently close causal link exists between the authorities' omissions and the harm suffered by the applicant.

Lack of justification: Any interference with Article 8 rights must be in accordance with the law, pursue a legitimate aim, and be necessary in a democratic society.

In the present case, the interference was not justified. The domestic legal framework was either inadequate or ineffective in practice. Even assuming that the measures pursued a legitimate aim, the authorities failed to strike a fair balance between the interests of the community and the applicant's right to respect for private life and home. The applicant was required to bear an excessive and disproportionate individual burden, while less intrusive or more protective measures were available but not adopted.

Procedural deficiencies: The respondent State further failed to comply with its procedural obligations under Article 8. The applicant was denied effective access to environmental information, meaningful participation in the relevant decision-making processes, and effective judicial remedies capable of preventing or redressing the interference. These procedural failures further undermine the proportionality of the interference.

Conclusion: The respondent State failed to fulfil its positive and procedural obligations under Article 8. The interference with the applicant's right to respect for private life and home was neither lawful nor proportionate and did not strike a fair balance between competing interests. There has therefore been a violation of Article 8.

V. Particularities of the Strasbourg system

The procedure before the Court has several distinctive features that set it apart from domestic judicial systems and other international courts.

1. BURDEN AND STANDARD OF PROOF

The Court adopts a flexible approach to evidence and is not governed by detailed evidentiary rules under the Convention or its Rules of Court. In most cases, facts are either uncontested or established by national courts. The Court generally relies on domestic fact-finding because it is not a fourth-instance court unless findings and conclusions in question are flagrantly and manifestly arbitrary, in a manner which gives rise in itself to a violation of the Convention. Further, the Court exercises broad discretion over admissibility and evaluation of evidence, accepts all forms of evidence, and may rely on reports from international bodies and NGOs. Although subsidiary to national systems, the Court may itself establish facts where necessary, while remaining cautious about acting as a first-instance fact-finder.

Burden at admissibility stage

At the admissibility stage, applicants must provide a minimum level of substantiation showing that complaints are not manifestly ill-founded. Applicants must also demonstrate the evidence for all admissibility criteria, for example exhaustion of domestic remedies. For example, in the recent climate case *Fliegenschnee and Others v. Austria* (2025), the complaint brought by an NGO was declared inadmissible as the applicant NGO did not bring evidence that it had attempted to initiate any remedies other than requesting a measure from the Federal Minister of Digital and Economic Affairs under the Trade Act, or that there had been a lack of appropriate remedies by which to pursue its complaint. Furthermore, the Court noted that the applicant NGO did not bring evidence of its membership or statutes. Consequently, the Court could not establish if the applicant NGO met the relevant victim status criteria under its case law.

Burden after admissibility stage

After admissibility, the burden of proof is flexible and may shift depending on access to evidence and the nature of the allegations. The Court often shares the burden between the parties and may require governments to justify interferences with Convention rights or rebut credible allegations where relevant information lies within their exclusive control. However, it is important to bring fully fleshed-out cases to the Court from the very beginning of an application's life, without anticipating an opportunity to clarify or further document claims in a written submissions phase, as there might not be one.

Standard of proof

The Court applies the standard of "beyond reasonable doubt," understood autonomously and based on strong, clear, and concordant inferences rather than direct proof. Such proof may follow from the coexistence of sufficiently strong, clear, and concordant inferences or of similar unrebutted presumptions of fact. The Court allows flexibility in this respect, taking into consideration the nature of the substantive right at stake and any evidentiary difficulties involved.

Environmental relevance

In environmental and climate litigation before the Court, applicants are not required to provide absolute scientific proof of harm. However, the Court expects reasonable and convincing evidence establishing a causal connection between the State's actions or omissions and the damage suffered. Practitioners must demonstrate that the authorities knew or should have known of the environmental or climate risk and failed to take adequate preventive measures. Applicants must also show that the harm was foreseeable and preventable, highlighting how timely and appropriate state intervention could have mitigated or avoided the impact. For example, in *Öneryıldız v. Turkey* (2004), the Court found that municipal authorities were aware of the risks posed by a landfill but failed to regulate or supervise it, directly contributing to a fatal explosion. Similarly, in *Budayeva and Others v. Russia* (2008), authorities ignored repeated warnings about the potential for mudslides, and their inaction materially contributed to the destruction of homes and property.

- When there is a need to assess whether the threshold of severity has been attained or if there is an environmental risk, the Court may have regard to compliance not only with domestic but also with international standards. It can also take into account the medical certificates as well as expert assessments, studies, and reports, including those drawn up by private experts. As regards climate change, it has pointed to the particular importance of the reports prepared by the Intergovernmental Panel on Climate Change (IPCC). Evidence should clearly link the state's conduct - or failure to act - to the environmental harm experienced by the applicants. This may include monitoring data, expert reports, official correspondence, or documented warnings that demonstrate the foreseeability of the risk. As mentioned above, the evidence can take many forms:
- Environmental monitoring data - such as air quality measurements, water contamination levels, or soil testing results can establish the presence of pollution or hazardous substances, as seen in *Fadeyeva v. Russia* (2005), where residents living near a steel plant used emissions data to show persistent air pollution affecting health and daily life.
- Epidemiological studies and medical records are also critical to demonstrate concrete health impacts linked to environmental hazards, as in *Pavlov and Others v. Russia* (2022), where long-term exposure to industrial pollution was correlated with respiratory illnesses among local residents.
- Technical expert reports provide authoritative assessments of emissions, noise, or other environmental factors, helping the Court understand complex scientific or technical issues. In *López Ostra v. Spain* (1994), expert reports on industrial waste management helped establish that toxic emissions interfered with the applicants' right to respect for private and family life under Article 8.

Visual evidence - satellite images, photographs, or time-lapse data - can document the progression of environmental degradation or illustrate spatial impacts, supporting claims of persistent or worsening harm.

Finally, the witness testimony describing lived experiences is crucial for demonstrating the practical consequences of environmental harm. These narratives allow the Court to assess the real-life impact on daily routines, health, or property. In *Budayeva and Others v. Russia* (2008), detailed witness statements documented the destruction caused by mudslides and the failure of authorities to implement preventive measures, providing compelling evidence of both harm and State negligence.

2. MARGIN OF APPRECIATION

Overview

A central feature of the Court's reasoning is the assessment of proportionality and whether a fair balance has been struck between individual rights and the general interest. This assessment is closely linked to the margin of appreciation afforded to States and varies depending on the right at issue and the context. The margin of appreciation is a doctrine developed by the Court to define the degree of discretion that States enjoy when fulfilling their obligations under the Convention. It reflects the subsidiary nature of the Convention system, recognising that national authorities are often better placed than an international court to assess local needs, social conditions, and policy choices.

The width of the margin of appreciation is not fixed; it varies depending on several factors. A wide margin is generally afforded where cases involve complex social, economic, environmental, or moral questions, or where there is no clear European consensus on the issue. By contrast, the margin is narrow when particularly important aspects of an individual's identity or fundamental rights are at stake, or where the interference concerns political speech or matters of public interest.

Environmental and climate-related cases

In environmental and climate-related cases, the Court generally recognises that States enjoy a certain margin of appreciation, given the technical complexity of environmental regulation, the need to balance competing public interests, and the long-term and predictive nature of environmental and climate policy. The decisions in these fields often involve scientific uncertainty, economic considerations, and the allocation of limited public resources, which national authorities are in principle better placed to assess. However, the Court has consistently held that the margin of appreciation in environmental matters is not unlimited. Where environmental harm has a direct and serious impact on individual rights, particularly on life (Article 2) or private and family life and the home (Article 8), the margin is significantly narrowed. In such cases, States are required to demonstrate that they have adopted and effectively implemented an adequate legislative and

administrative framework and that they have taken reasonable and appropriate measures to prevent or mitigate foreseeable risks. The Court places particular emphasis on the procedural dimension of environmental decision-making. Even in areas where States retain a relatively wide margin regarding substantive policy choices, that margin is reduced where procedural safeguards are lacking. The failures to provide access to environmental information, to conduct proper environmental impact assessments, to allow public participation, or to ensure effective judicial review can lead the Court to find a violation, regardless of the substantive discretion afforded to the State.

In climate change cases, in light of the scale and seriousness of the threat, and the general agreement on the high stakes involved in achieving effective climate protection through the adoption of overall greenhouse-gas reduction targets consistent with the States' commitments to carbon neutrality, States have only a narrow margin of appreciation when it comes to recognising the need to combat climate change and its negative impacts and to defining the relevant goals. However, they enjoy a broad margin of appreciation in determining how those goals are to be achieved, including the selection of concrete measures and policies to meet internationally established targets and commitments, taking into account national priorities and available resources (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024).

The doctrine of the margin of appreciation allows the Court to recognise that national authorities are generally better placed to assess and manage complex policy matters within their jurisdiction, including environmental and climate regulation. At the same time, the Court maintains supervisory authority to ensure that States do not breach the fundamental rights guaranteed by the Convention. In environmental and climate cases, this doctrine plays a critical role because States often face competing demands, such as balancing economic development, energy production, and environmental protection, while also safeguarding the rights of individuals.

In environmental and climate cases, States frequently invoke the margin of appreciation, claiming broad discretion in balancing public or economic interests against individual rights. The Court recognises that States have flexibility in regulating complex technical, social, and economic issues, but this discretion is not unlimited. The Court applies a proportionality test to determine whether the interference with rights is justified and whether the State has struck a fair balance between public and private interests.

Under Article 2 (right to life), the margin of appreciation allows States to decide how best to protect life within the context of available resources and technical feasibility. However, where there is a real and immediate risk to life, States' obligations are strict. In *Öneryıldız v. Turkey* (2004) and *Budayeva and Others v. Russia* (2008), authorities failed to implement feasible preventive measures despite knowing of serious, foreseeable risks, and the Court found that the State had exceeded its margin of appreciation. This demonstrates that even when technical or economic discretion exists, failure to prevent obvious dangers constitutes a breach of Article 2.

Under Article 8 (right to respect for private and family life), the margin of appreciation permits States to balance individual rights against legitimate community needs, such as industrial development or urban planning. Yet the Court emphasises that interference must be proportionate, foreseeable, and consistently applied. In *Fadeyeva v. Russia* (2005), while the State had discretion over industrial zoning, it failed to take adequate measures to protect residents from pollution, exceeding the permissible margin.

In cases alleging a violation of Article 1 of Protocol No. 1, the Court examines whether, as a result of the State's action or failure to act, the individual concerned was required to bear an excessive and disproportionate burden. To determine whether this requirement has been met, the Court conducts an overall assessment of the competing interests at stake, mindful that the Convention is designed to protect rights that are practical and effective. In this context, particular importance is attached to the existence of uncertainty-whether legislative, administrative, or stemming from the practices of the authorities-which constitutes a relevant factor in evaluating the conduct of the State. For Article 1 of Protocol No. 1, which protects property rights, the margin of appreciation is particularly relevant. States have wide discretion to impose restrictions on land use or property for environmental purposes, such as conservation, spatial planning, or pollution control. However, the Court insists on a fair balance between public interest and individual rights. In Z.A.N.T.E. - Marathonisi A.E. v. Greece (2007), although a building ban to protect endangered sea turtles was legitimate, the Court found a violation of A1P1 because authorities tolerated other environmental harms in the same area, undermining coherence.

3. REMEDIES UNDER THE CONVENTION

Pursuant to Article 41 , the Court can grant "just satisfaction" to the victims of violations of the Convention or its protocols. This form of award is similar to compensation or damages for the affected individuals or parties. It may be utilized to address both financial and non-financial harm, including emotional distress or physical suffering, in addition to covering legal fees and costs. The aim of these awards is to compensate applicants rather than to penalise States.

In relation to claims for non-pecuniary damage, the Court may consider that the mere finding of a violation constitutes sufficient redress for the applicant. When determining the amount of just satisfaction to be awarded, the Court assesses a range of factors, including the nature and seriousness of the violations established, the specific circumstances of the case, and whether the damage was partly attributable to the conduct of the applicant. The Court also generally takes into account the local economic circumstances of the country concerned.

Applicants are required to establish a clear causal connection between the violation found and the damage claimed. In cases of pecuniary damage, applicants must, as far as possible, provide documentary evidence demonstrating the existence and monetary value of the loss. Compensation may cover both losses already sustained and losses expected to occur in the future. As non-pecuniary damage is not readily susceptible to precise calculation, the Court assesses such claims on an equitable basis, guided by the principles developed in its case law, and the applicants are invited to indicate the amount they consider equitable.

The Court may also award compensation for reasonable costs and expenses necessarily incurred at the domestic level and in proceedings before the Court, whether to prevent a violation or to seek redress for one. Such costs and expenses must have been actually incurred, meaning that the applicant has either paid them or is under a legal or contractual obligation to do so.

Pursuant to Rule 60 of the Rules of Court, the applicants should submit their just satisfaction claims as early as possible after the case is communicated to the respondent State, and at the latest together with their observations on the merits. Claims must be specific, itemised, and supported by evidence. Applicants should clearly distinguish between pecuniary and non-pecuniary claims, provide documentation such as invoices, contracts, receipts, or expert reports for pecuniary losses, and explain and justify the amount claimed for non-pecuniary damage by referring to the seriousness of the violation. They should also include claims for legal costs and expenses, demonstrating that these were actually incurred and were necessary. Although the Court ultimately retains discretion in making an equitable assessment, timely, well-reasoned, and properly documented claims significantly increase the likelihood that the applicant will receive full compensation.

4. INTERACTION WITH OTHER LEGAL FRAMEWORKS - RELEVANT LEGAL FRAMEWORK AND PRACTICE

Successful environmental litigation in the Convention rarely occurs in isolation, and good arguments often integrate parallel legal standards from international, European and domestic comparative law. These complementary frameworks strengthen claims under the Convention by illustrating emerging consensus, comparative obligations, and reinforcing principles of environmental protection. The Court interprets Convention rights "in harmony with other rules of international law" (*Demir and Baykara v. Turkey* (2008), making these instruments valuable interpretive tools for practitioners.

This chapter below should not be seen as an exhaustive list of standards which can be invoked in applications to the Court. It is just a short sample of documents which could be added to support legal claims. A concise and well-organised presentation of these materials strengthens the application by situating the complaint within a wider legal context that reinforces the Convention arguments and supports the dynamic interpretation of the rights at stake.

International standards - relevant international materials

1. International law

For example, the relevant international materials regarding international law on climate change have been described in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024).

2. International treaties

There are numerous international treaties on climate and the environment, covering issues from emissions reduction and biodiversity to hazardous waste, pollution control, and public participation. Together, they

create a broad global framework aimed at protecting the planet and guiding States' environmental responsibilities.

A recent example of an international treaty that played a crucial role in climate-related cases before the Court is the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention, 1998), adopted under the United Nations Economic Commission for Europe. In *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC] (2024), when developing its novel approach to the standing and victim status of associations in climate cases, the Court referred extensively to the Aarhus Convention, which highlights the role of environmental associations in protecting the environment. This treaty operationalizes environmental democracy through three procedural pillars: access to environmental information, public participation in environmental decision-making, and access to justice in environmental matters.

3. Advisory Opinions of international courts

The relevant advisory opinions on climate change have been described in *Greenpeace Nordic and Others v. Norway* (2025).

4. UN bodies, treaty bodies and special procedures

In environmental and climate cases, there may be extensive material from UN bodies, treaty bodies, and special procedures, all of which can provide valuable guidance and support for legal arguments.

For example, in October 2021, the UN Human Rights Council formally recognised the human right to a clean, healthy, and sustainable environment in its Resolution 48/13. This recognition, endorsed by a growing number of States, reflects an emerging international consensus on the environmental dimensions of human rights protection.

This recognition, though not formally binding, could inform the Court's evolving interpretation of the Convention. It underpins claims that the Convention must adapt to contemporary conceptions of environmental rights, illustrated by cases such as *Tătar v. Romania* (2009) and *Cordella and Others v. Italy* (2019). It also strengthens assertions that failing to prevent severe environmental damage can undermine the core rights to life and health.

European Union law and practice

EU environmental law forms one of the most advanced and comprehensive regulatory frameworks globally, influencing both domestic and Convention standards. Core directives address among others air quality, water protection, waste management, industrial emissions, and environmental liability. The EU law is also a benchmark for strategic environmental assessment (SEA) and environmental impact assessment (EIA).

The Court has also referred to, or found support in, European Union law and practice in examining the cases related to the protection of the environment: concerning pollution from ships and environmental crime (*Mangouras v. Spain* (2010)) and the prolonged failure by the authorities to ensure the collection, treatment and disposal of rubbish (*Di Sarno and Others v. Italy* (2012)), as well as in cases touching on environmental regulation and compliance like *O'Sullivan McCarthy Mussel Development Ltd v. Ireland* (2018) and in the broader context of industrial emissions and state omissions as reflected in *Cordella and Others v. Italy* (2019).

Further, the judgments of the Court of Justice of the European Union can be also invoked to support the legal claims. For example, in *Locascia and Others v. Italy* (2023), the Court relied on the relevant CJEU judgments in that domain to establish the facts of the case

Other materials

When necessary, the comparative law analysis can be submitted. This can consist of overview of domestic case law concerning a given issue. Further, materials from other regional human rights mechanisms, such as the Inter-American system and the African system might highlight best practices or broader human rights norms that align with the Convention's object and purpose.

How to integrate those frameworks into the application

In applications before the Court, the legal frameworks outlined above are most effective when presented as part of a coherent argument rather than as separate references. The Court regularly interprets the Convention in light of broader international and comparative standards, and applicants can assist this process by demonstrating how domestic law, international instruments, and regional human rights practice collectively support the interpretation of the relevant Convention rights.

In environmental cases, this integration is particularly valuable. Bringing together national case law, international conventions, UN materials, EU law, and comparative human rights standards helps illustrate emerging consensus, clarify States' obligations, and highlight principles already reflected in the Court's own reasoning. By showing how these parallel frameworks align with the applicant's claims, practitioners provide the Court with a structured and persuasive basis for understanding the environmental dimension of the dispute.

5. ADVISORY OPINIONS

The Court can provide advisory opinions under Article 47 at the request of national courts or other competent authorities. This mechanism allows domestic authorities to seek guidance from the Court on the interpretation or application of the Convention in specific legal questions before issuing a decision in domestic proceedings.

In the context of environmental protection, advisory opinions can clarify how human rights standards - such as the right to life (Article 2), the right to respect for private and family life (Article 8), or the right to an effective remedy (Article 13) - apply to state obligations concerning environmental harm.

Lawyers can play an active role by advising or requesting national courts to seek an advisory opinion from the Court. In environmental cases, they may identify situations where the interpretation of human rights standards is unclear or where systemic or emerging environmental risks require clarification. By prompting the court to submit a question under Article 47, lawyers help ensure that the Court provides guidance on how the Convention applies to domestic measures, omissions, or regulatory frameworks, thereby strengthening the protection of human rights in the environmental context.

While advisory opinions are non-binding, they carry significant interpretative weight. They can influence national judicial decisions, guide legislative reforms, and shape policy-making. Advisory opinions are particularly useful in environmental cases for establishing how human rights principles can be applied to complex, systemic, or emerging environmental challenges, including industrial emissions, long-term contamination, or climate-related hazards. By providing early clarification, advisory opinions help ensure that domestic remedies and preventive measures align with the Convention, potentially preventing future violations before they occur.

VI. Stages of the procedure before the Court

This section offers a macro-level overview of the procedure before the Court after the application is submitted to the Court.

1. WHAT HAPPENS WITH AN APPLICATION

After an application is lodged with the Court, within four months of the final domestic decision, it is registered and given a case number. The Court conducts an initial analysis to check whether the basic formal requirements and admissibility conditions of Rule 47 of the Rules of Court are met. This includes checking, among others, whether the application form is duly filled out and the case file is complete.

If the Rule 47 criteria are met, the application moves to a combined examination of admissibility and, in some formations, the merits of the case. At this stage, the Court looks at the admissibility criteria - such as whether the applicant is a "victim" within the meaning of Article 34, whether the complaints are compatible *ratione personae, temporis*, and *materiae*, and whether any other inadmissibility grounds apply.

The Court (often through a single judge or a committee) will issue an admissibility decision. If the Court finds the application inadmissible, the case is concluded at this point. Common reasons include incompatibility *ratione materiae* or *ratione personae*, non-exhaustion of domestic remedies, non-compliance with the 4-month rule, or the application being manifestly ill-founded or abusive.

The applications which are not declared inadmissible at this stage are communicated to the respondent Government, who is invited to submit observations on admissibility and merits. The Court may also invite the parties to provide further materials in the communication. The fact that a case is communicated does not guarantee that it will ultimately be declared admissible, as admissibility is examined subsequently in light of the parties' submissions (see, for example, Duarte Agostinho and Others v. Portugal and Others (2024)). The parties should avoid relying on lengthy quotations of general principles from the case law and should instead focus on applying the relevant principles to the specific facts of the case. References to case law are appropriate only when directly relevant to particular aspects of the case, and there is no need to elaborate extensively on subsidiarity or other broad general concepts. At this stage, applicants must respond with focused, evidence-based observations addressing the Government's submissions. Third-party interventions from NGOs, UN experts, or academic institutions can be submitted, adding legitimacy and reinforcing the broader public interest dimension of the case.

Following the exchange of written observations and, in some cases, oral hearings or a period for settlement, the Court will issue a judgment or an inadmissibility decision. The judgment may be a finding of a violation of the Convention, a finding of no violation. After a judgment, a case may be referred to the Grand Chamber if a party requests a re-examination and the criteria for referral are met. The referral is subject to the Court's assessment under Article 43, which allows the Grand Chamber to review cases raising a serious question affecting the interpretation or application of the Convention, or cases that may have a significant impact on the development of the Court's case law. It should be noted that not every request for referral is granted; the Court first considers whether the criteria are satisfied before deciding to refer the case.

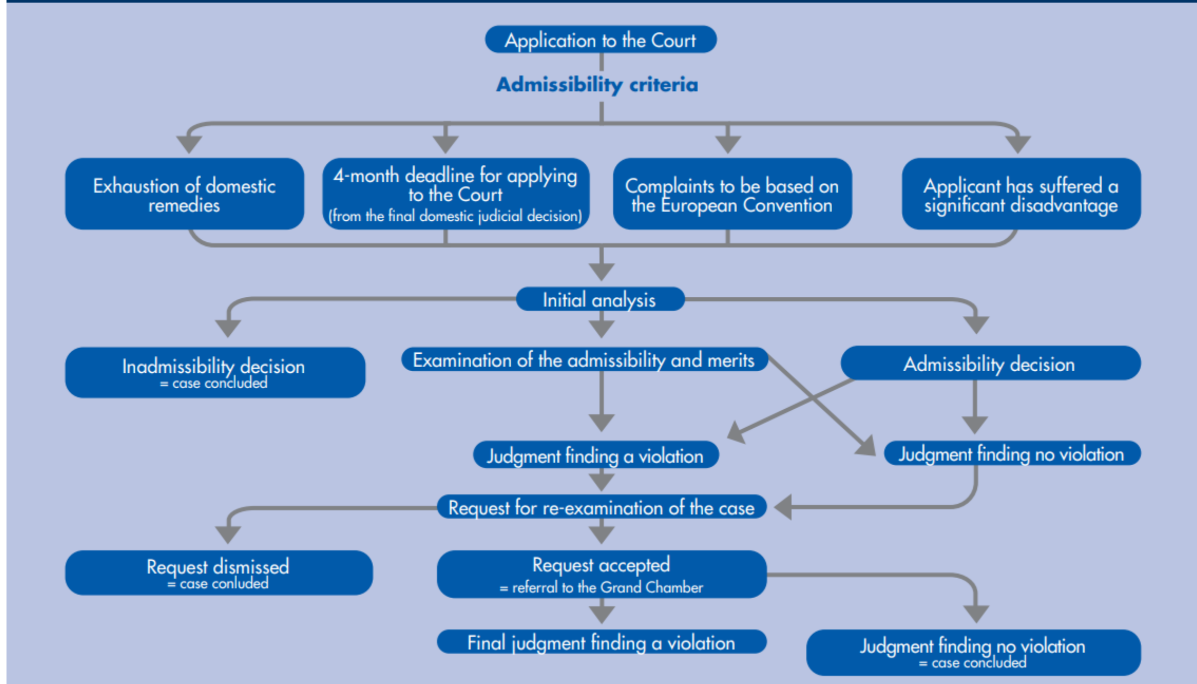
The Court's judgment is binding once it becomes final under Article 44. This occurs when no referral to the Grand Chamber has been requested, when a requested referral has been examined and refused, or when the Grand Chamber has delivered its judgment. The judgment sets out the Court's reasoning, the findings on admissibility and merits, and, where applicable, any just satisfaction awarded under Article 41. The judgment may find violations of substantive rights (such as Articles 2, 8, or Article 1 of Protocol No. 1) or procedural rights (such as Article 6). The Court frequently draws on international environmental norms, comparative jurisprudence, and scientific evidence to interpret Convention rights in light of contemporary environmental challenges. Once the judgment is final, the respondent State is obliged to comply with it under Article 46 of the Convention.

The Court may also use the so-called pilot-judgment procedure pursuant to rule 61(1) of the Rules of the Court. This procedure allows the Court not only to decide whether a violation of the Convention occurred in the specific case but also to identify the systemic problem and to give the Government clear indications of the type of remedial measures needed to resolve it. Such procedure to address systemic deficiencies was used for the first and (until now) last time in environmental cases in *Cannavacciuolo and Others v. Italy* (2025) where the Court recognised that the violation, large-scale toxic waste pollution in the "Land of Fires" in Campania, was not limited to the applicants alone but affected a broader population. This procedure allowed the Court to order Italy to implement general measures to prevent similar violations in the future, including legislative reforms, improved regulatory oversight, and mechanisms for environmental monitoring. For practitioners, the pilot judgment framework highlights an important strategic tool: by demonstrating systemic failings in environmental protection, the lawyers can leverage Court judgments to achieve remedies that extend beyond individual clients, ensuring structural change, enhanced compliance, and broader public benefit.

After final judgment, the case file is transmitted to the Committee of Ministers of the Council of Europe, which supervises the execution of the judgment. This includes compensation to the applicant (just satisfaction), adoption of individual measures (e.g., reopening of domestic proceedings), and, where necessary, general measures to prevent similar violations in the future. Some judgments in environmental matters have already been executed, demonstrating the practical impact of the Court's decisions.

Lawyers play an important role in making sure that States actually carry out the obligations set out in Court judgments. They should actively monitor state compliance and can submit Rule 9 communications to the Committee of Ministers, which provide detailed information on the implementation of individual and general measures, highlight any delays or gaps, and help ensure the Committee has an accurate picture of the State's actions. Lawyers can also publish shadow reports to document non-compliance, engage with civil society organisations and the media to maintain public attention on outstanding obligations, and advocate for legislative or administrative reforms to address systemic problems that caused the original violation.

Over the course of the last years, the Court has more actively influenced the execution process by giving indications as to the specific individual and/or general measures to be taken under Article 46 (binding force and execution of judgments) in order to put an end to a situation which it has found to violate the Convention and ensure its non-repetition. In *Cordella and others v. Italy* (2019), the Court has ordered retrial or reopening of the case reiterated that it was for the Committee of Ministers of the Council of Europe to indicate to the Italian Government the measures that were to be taken to ensure that its judgment was enforced, while specifying that the work to clean up the factory and the region affected by the environmental pollution was essential and urgent, and that the environmental plan approved by the national authorities, which set out the necessary measures and actions to ensure environmental and health protection for the population, ought to be implemented as rapidly as possible.



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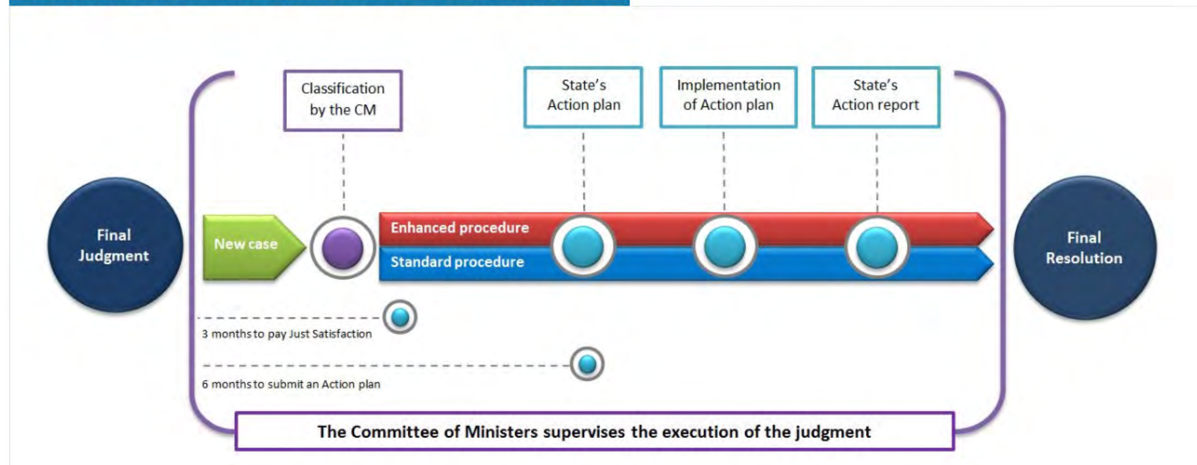

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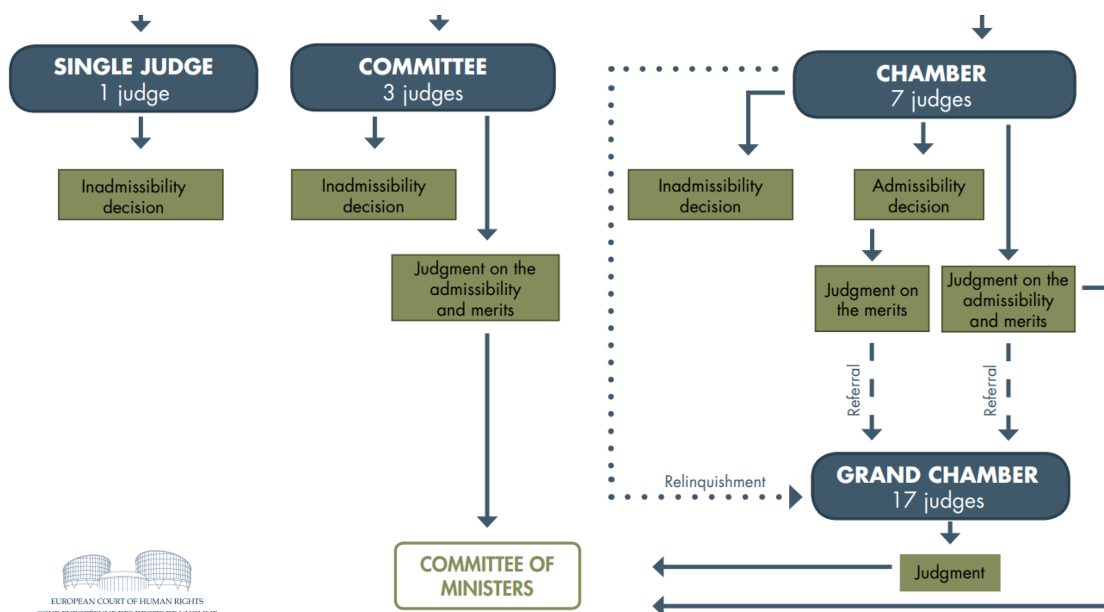
2. JUDICIAL FORMATION AT THE COURT

At the Court, the type of judicial formation that decides a case depends on the nature and complexity of the application. Clearly inadmissible applications are examined and decided by a single judge, who may issue a decision declaring the application inadmissible without public reasoning. Committees composed of three judges may also declare applications inadmissible. In addition, where the case concerns issues already covered by well-established case law, a Committee may adopt a judgment on both admissibility and merits.

If the case raises more complex issues, it is examined by a Chamber of seven judges. A Chamber may declare an application inadmissible, rule on admissibility separately, and then deliver a judgment on the merits or decide admissibility and merits jointly in one judgment. Before delivering a judgment, the Chamber may relinquish jurisdiction in favour of the Grand Chamber if the case raises a serious or novel question affecting the interpretation of the Convention or if there is a risk of inconsistency with existing case law.

The Grand Chamber, composed of seventeen judges, examines cases relinquished by a Chamber or cases referred to it following a Chamber judgment. The Grand Chamber delivers the final judgment of the Court, from which no further judicial appeal is possible.

Once a judgment becomes final, responsibility for supervising its execution does not lie with the Court but with the Committee of Ministers of the Council of Europe. The Committee of Ministers monitors the adoption of individual and general measures by the respondent State to ensure full compliance with the Court's judgment.



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VII. Pathways to the Court

Environment and climate-related harm increasingly affects the enjoyment of rights protected by the Convention. Although the Convention does not expressly guarantee a right to a healthy environment, the case law of the Court demonstrates that environmental degradation, pollution, climate-related risks, and regulatory failures may engage existing Convention rights. Through its evolving interpretation, the Court has clarified the circumstances in which environmental factors may give rise to State responsibility under the Convention framework.

This Guide has outlined how environment and climate cases may be examined through a human rights lens in the context of applications to the Court. It has explained the necessity of identifying a link between environmental harm and individual Convention rights, as well as the relevance of admissibility requirements, evidentiary considerations, and established case law. By structuring the analysis around the stages of an application - from preparation and admissibility to legal argumentation and proceedings before the Court - the Guide provides a systematic overview of the procedural and substantive issues involved. It functions as a practical roadmap, outlining the pathways to the Court for environmental and climate-related cases.

Framing environmental harm within the existing human rights framework of the Convention does not replace environmental law mechanisms but complements them where national systems fail to provide effective protection or remedies. As environment and climate-related cases continue to arise, understanding the Court's approach and the limits of the Convention system remains essential for assessing whether, and how, environmental cases may be addressed within the jurisdiction of the Court.

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